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JOSEPH HÖFFNER

Colonialism and Christian Ethic

In antiquity, the founding of colonies was reckoned as an act of outstanding cultural value. The very word *colony* suggests it, derived as it is from *colere,* which is related to *culture* and *cult,* denoting a newly-opened-up area where planting and cultivating, nursing and fostering, venerating and worshipping, go on. Moreover we observe that the colonies of antiquity were by no means confined to the cultivation of interior or borderland territories, but were often situated 'overseas', as for example the Greek colonies in Asia Minor, Sicily and Southern Italy. And yet nowhere were colonies frowned upon. Even today Cologne is still proud of having started as the Roman *Colonia.* And indeed the Middle Ages, which mainly went in for borderland colonization, saw nothing reprobatory about it.

The derogatory connotations of *colonialism* are of modern provenance. The word does of course cover more than the centuries-old habit of founding colonies. But as colonialism was practised by Christian peoples, and as the disapprobation of former colonial peoples has now reached huge proportions, we undoubtedly have to face up to the question: how is colonialism related to Christian morality ?

It seems advisable to begin our enquiry by giving a brief survey of the rise and fall of colonialism, then turning the full light of Christian morality onto what has become the subject of such fierce attack.

I. *The Rise and Fall of Colonialism*

It is usual to distinguish five periods in the colonial era (1): the period of Portuguese and Spanish colonial predominance (1492-1598); the period of Dutch colonization (1598-1688); the period of Franco-British colonial disputes (1688-1783); the period of Great Britain's colonial predominance (1783-1870); the period of world-wide colonial imperialism as such (1870-1940).

Portugal and Spain inaugurated the colonial era and imparted to it certain traits that are still discernable after centuries. Missionary zeal, and indomitable spirit of discovery, and hunger for gold and for power, coexisted in uneasy partnership. *José de Acosta* (1539-1600), a shrewd Jesuit missionary who spent fifteen years on the spot, acquired a pretty good insight into the conditions of the Spanish colonial empire; he made the telling remark, 'the covetousness of the Christians brings the conversion of the Indians' — adding by way of explanation, that what the world lacked was selfless apostolic intentions. That is why God in his wisdom allowed quantities of gold and silver to grow in those distant heathen lands, so that at least lust of gold might lure Christians thither where love for Christ no longer drew them (2). In similar terms, *Juan de Solorzano Pereira*, lauded 'divine providence' for making use of 'such lowly means' to bring about the great work of conversion (3).

It was the example of Venice that was so attractive. The commercial Queen of the Adriatic, possessing the largest dockyards in the Mediterranean region, was chiefly famous for the trade in spices to which she owed her prosperity. Those precious wares from Indian lands reached Europe by two different routes like two great crevices across the face of the earth: the

(1) Eduard Sthhr, *Kolonialgeschichte der Neuzeit* (Colonial history in modern times). Bern, 1949. — A. Rein, *Die europäische Ausbreitung über die Erde*, Potsdam, 1931.

(2) 'Christianorum avaritia Indorum vocatio facta est' (J. de Acosta, *De promulgatione evangelii apud barbaros sive de procuranda Indorum salute*. Libri sex. Coloniae Agrippinae, 1596, p. 322).

(3) *De Indiarum Jure, sive de Justa Indiarum occidentalium inquisitione, acquisitione et retentione*. Tom. I, Lugduni, 1672, Lib. II, C. 3. n. 61, p. 146).

one went through the Red Sea to Alexandria, the other through the Persian gulf and along the Euphrates and Tigris to the coast of Asia Minor. Both trade routes were in the hands of the Mohammedans. So it was the proud dream of many a seafarer to discover a sea-route to India and thus get the better of Islam, do it out of its trade, and meanwhile oust Venice from its pre-eminence and become rich, powerful and famous. But naturally, for nations like Spain and Portugal with the crusading ideal in their very blood, delight in discovery went hand in hand with zeal for converting.

The founder of Portuguese maritime power, Prince Henry of Portugal (1394-1460), sent out numbers of expeditions from 1416 onwards. They set forth on adventure bound, in 'extremely fast caravels' as we read in a papal Bull (4), discovering Madeira, Porto Santo, the Azores, Cape Bojador (1434), Guinea, Cape Verde (1445) and the Cape Verde Islands, and taking possession of them on Portugal's behalf. Under King Alfonso V of Portugal (1438-1481), sometimes surnamed 'the African', great progress was made in opening up the west coast of Africa. In 1470 the Equator was reached. From year to year, the bases were moved forward over the Congo and Angola, further and further south, till finally, in 1486, Bartolomeo Diaz sailed round the Cape of Good Hope. Under King Manuel the Fortunate (1495-1521), both the east coast of Africa and the coast of East India were discovered in the space of a few years by Vasco da Gama, Pedro Alvarez Capral, Almeida and Albuquerques (5).

Portuguese colonial rule was confined to coastal regions. In this lay both its strength and its weakness. It had a practical monopoly of the East Indian spice trade (6) and the very profit-

(4) 'In velocissimis navibus, caravellis nuncupatis', from the Bull *Romanus Pontifex*, Nicholas V, 8.1.1454, in: Bullarium diplomatum et privilegiorum s. romanorum pontificum, Tom. V. Turin, 1860, p. 112.

(5) Cf Paul Darmstädter, *Geschichte der Aufteilung und Kolonisation Afrikas seit dem Zeitalter der Entdeckungen* (History of the cutting up and colonization of Africa since the age of discovery). Vol. I. Berlin-Leipzig, 1913, p. 9, ff.

(6) Cf Jos. Höffner, *Wirtschaftsethik und Monopole im 15.u.16. Jahrhundert* (Business ethics and monopolies in the 15th and 16th centuries). Jena, 1941, p. 34 ff.

able negro slave trade, but hardly anywhere did it really found colonies. Only in a few strongly-held coastal areas did it succeed in introducing Christianity and — what came to the same thing — the Portuguese way of life; for instance on the island of Goa and a few places on the Congo and Angola coasts.

The Spanish conquista was different. It succeeded almost at a single stroke in gaining complete mastery over the empire and culture of the Aztecs and Incas. This gave Spanish colonization a tremendous start. It believed itself specially appointed, not merely to occupy a few coastal sites and the like, but to colonize whole countries at a time, make them Christian, and bring them into line economically with the requirements and expectations of the home-land.

The modern notion of a colony, so different from that of antiquity, is approximately correct for the Spanish colonial empire: it consisted in territories outside the home country, inhabited by populations of a different race, which were placed under Spanish rule and administration; fully conscious of their own superiority, the Spaniards then proceeded to make these territories serviceable to their own country; the natural development of the people was subordinated culturally, politically and economically, to those priorities, and was in fact, to a large extent, held up.

The Portuguese and Spanish conquests were financed by the State, with monopolies and controls. But when towards the end of the 16th century the Dutch traders succeeded in acquiring a foothold in the lucrative East Indian trade, and in 1602 combined to form the Dutch East Indian Company, it was a private venture though it had State protection and privileges. Utterly unscrupulous in its methods, the Company managed to break down Portuguese predominance in Indonesia and the far East, and build up a Dutch colonial empire. In comparison, the Dutch West Indian Company was unlucky, though it achieved a breakthrough into Portuguese Brazil, it was not able to hold its bases for long.

Meanwhile the British and the French were also engaging in the struggle for supremacy in the colonies and founding their own trading companies. Through wars with French, Dutch,

Spanish and Portuguese, England built up its first colonial empire but lost the most valuable part of it on the United States' declaration of independence on July 4th 1776. In the first half of the 19th century, the Ibero-American colonial empire also gained its independence, which meant that European colonization was now to be more and more centred on Asia and Africa. Great Britain gained the supremacy in both continents.

During the last thirty years of the 19th century, new claimants to colonies arose: Germany (1884), Belgium (1885), Italy (1885), Japan (1895), and finally the United States (1898), which had for so long abstained from colonizing (7). The colonial era was approaching its high-water-mark in world-wide colonial expansion. Thanks to trade and exploration, every corner of the earth had been reached. The great powers were all busy extending their influence beyond the borders of the home country and taking over vast tracts of overseas territories, though white settlers could only make their homes in places where the climate was suitable. At the beginning of the 20th century, European nations ruled nearly all the politically weak countries of the earth, whether as colonies or protectorates or lease tenures. But a decline was already setting in. In an instinctive surge, greatly implemented by two world wars in ways no one could possibly have foreseen, the coloured peoples began to strive for independence.

An analysis of modern colonialism shows that it has six main characteristics:

1. The western nations approached the other races in full consciousness of their own all-round superiority, regardless of the fact that some of these countries had a cultural tradition of a thousand years and more. In particular, all coloured peoples ranked as culturally backward and were treated as of lesser degree. Terms like 'the white man's burden' were current, with the assumption that the white man was under a special obligation to educate primitive peoples: a distinguished Indian writer, *Kavalam Madhava Panikkar,* denounces all such expressions as 'slogans' and 'delusions', 'liberty, equality, frater-

(7) Cf J. W. Pratt, *America's Colonial Experiment.* New York, 1950.

nity at home — exploitation in the colonies' ([8]). And on July 15th 1886 Abbot Franz Pfanner, founder of Mariannhill, Natal, rebuked White presumption with acid irony: 'The white man is supposed to be regarded by these black men as a higher being, and at every moment the Kafir is made to feel he is worthless, and never will such a guy as he be able to attain to the dignity of a White' ([9]).

2. Modern colonialism opened up the whole round world and brought into contact with the rest of the world, peoples and cultures that had hitherto gone their own way. This process has indeed had disastrous effects, in that whole peoples have lost their roots and become exposed to exploitation by foreign capital investment.

3. During the era of colonial imperialism, while European rule was being established further and further afield, another European product, the 'technical revolution', was also reaching the far ends of the earth. It has had such shattering effects on the mode and emotional content of life everywhere that it can be compared in importance to the transition from a nomadic to a settled life in the neolithic age. For the technical age has been busy producing a type of man that has his counterpart all over the world, including the former colonies. A new age of world history has begun, and it is doubtless true to say that without so-called colonial imperialism, the technical revolution would not have spread to the whole world in so short a time.

4. On the tracks of the colonial powers, and very often under their wing, came Christian missionaries to convert the heathen. The frequently close connection between missionaries and colonial authorities gave the native populations the impression that Christian missions were a bye-product of European colonialism and, as Kavalam Madhava Panikkar observes with some bitterness, were turning the humiliations to good account. No

([8]) Kavalam Madhava Panikkar, *Asia and Western Dominance*. London, George Allen & Unwin, 1955; new ed. 1959.

([9]) Letter from Abbot Franz Pfanner, July 15th 1886, published in Mariannhill Calendar for 1890 (Mariannhill, Natal) p. 55.

worse service could have been done the Church of Christ as it appears in history, he declared ([10]). Moreover the missionaries took too little account of the innate character of the native, the methods used were often conducive to europeanization ([11]). So it was inevitable that with the breakdown of colonialism the Christian missions found themselves involved in a serious crisis.

5. It must be recognized that in the countries of the West the Christian conscience roused public protest at the conditions in the colonies and stood out for the human rights of the native peoples. Two great historical movements of protest can be distinguished: the Spanish colonial ethic of the 16th century, producing what was, in view of prevailing circumstances, a truly noble legal system for the colonies ([12]); and then the movement to end slavery which started towards the close of the 18th century ([13]). Both movements can be traced to the explosion of the Christian conscience in European lands, not to a revolt of the colonial peoples themselves, who at that time had not acquired sufficient self-awareness to adopt a policy of their own.

6. The effect of European colonization on former colonial peoples must be regarded as strong and irreversible. Nowhere has the ending of colonial rule meant a return to former condi-

([10]) Ibid.

([11]) Even the Mariannhill missionaries, though they tried to understand the Zulus and serve them selflessly, were of the opinion that 'so long as people go naked they will not give up polygamy' (*The Trappist among the Kafirs*, Supplement No. 2, 14.4.1884, p. 28); again, 'as work is an essential part of civilization, the missionary cannot convert the Kafir unless he can persuade him to work'. (*Fliegende Blätter* (loose sheets), Mariannhill, Nr. 12, 11.10.1883). Whereas neither European clothing nor a European work-ethic is a prerequisite of salvation in Christ.

([12]) Cf J. Höffner, *Christentum und Menschenwürde* (Christianity and human dignity). Spanish colonial morality in the Golden Age. Trier 1947. Spanish translation: *La Etica colonial española del Siglo de Oro*. Madrid, 1957.

([13]) Cf A. Ducasse, *Les négriers ou le trafic des esclaves* (Slave-ships, or the slave-trade). Paris, 1948. — P. Keysel: *Die Gesetzgebung der Kulturstaaten zur Unterdrückung des afrikanischen Sklavenhandels* (Laws of the civilized countries to abolish the African slave-trade). 1905. — E. Williams, *Capitalism and Slavery*. 1945.

tions. A powerful and very touchy national awareness has emerged which, while resenting any form of tutelage, is ambitious to catch up with the modern industrial states as soon as possible.

But now that these territories have gained their independence in Asia, Africa and South America, Soviet propaganda is brandishing the slogan 'neo-colonialism', to rouse them against the West. Economic aid, military treaties and strategic bases are all labelled *subversive*. The Soviet-Zone German periodical, *Einheit* (unity) calls the United States a 'classical neo-colonial power', beside which the Federal Republic of Germany, in particular, has become 'a leading champion of neo-colonialistic expansion' ([14]). In reality however, it is Soviet imperialism itself that has subjected numbers of nations to the yoke of a new, harsh colonialism (Lithuania, Latvia, Esthonia, Poland, the Soviet Zone of Germany, Czeckoslovakia, Hungary, Rumania, Albania, etc.); this colonialism has two particularities: first, what is typical of it is its totality, for it not only subjects its victims to political, military and economic oppression, but forces upon them an uniform ideology, that of dialectical materialism; secondly, there is the cynical compulsion to describe one's own enslavement as 'freedom'. And yet, strange to say, it is often in the name of *moral values,* justice, freedom, etc., that Soviet propaganda attacks the western world. But of course, in the system of dialectical materialism, morality — and all spiritual values — are merely 'a function of that complicated bit of matter known as the human brain' ([15]).

II. *The Christian Conscience in revolt*

The Christian conscience first came face to face with the problem of colonialism in the Portuguese and Spanish heyday: was it right for white men to subjugate peoples of different colour ? Is it permissible to make slaves of men of other races and put them to forced labour ? Is it the white man's job to

([14]) *Einheit,* November 1960.

([15]) W. L. Lenin, *Materialismus und Empiriokritizismus,* (Critical notes on a reactionary philosophy). Works of Lenin. Ed. 13. Moscow, 1927, p. 167.

impose his culture on others ? And what are the basic principles to guide the missions ?

It would be too much to expect these questions to have found formal answers from the very start. The first people to whom the problem occurred were not scholars but missionaries, eyewitnesses of the methods preconized by the colonizers. The Dominicans, first monastery on the Española Island was hardly built when, in Lent 1511, they proclaimed from their pulpit 'in extremely harsh and terrible words' that all Spanish settlers were in grievous sin on account of their inhuman oppression of the Indians; their message was greeted with angry expostulations even before the end of the service ([16]). On the island of Cuba, that noble apostle to the Indians, Bartolomé de Las Casas, took the same line in a sermon on the feast of the Assumption in 1514. 'All were astounded and positively infuriated at my words', he remarked, 'some were stunned; to others it seemed they must be dreaming. For they had heard things said that sounded utterly unbelievable: that it was a sin to hold the Indians enslaved; just as though someone had told them they must no use beasts of the field any more' ([17]).

The protests of the missionaries could not change what was going on in Spanish America. The whole system had become too much a part of the colonial economy. Nonetheless the rousing of the Christian conscience was a great event. Its most important effect was to make the human treatment of the Indians be regarded as a Christian obligation: a colonial legal system came into existence that *Ernst Samhaber* describes as 'unique in the world' ([18]). America had hardly been opened up when for the first time in history there was a demand for an interdict on child labour, compulsory labour for women and the exploitation of the working man — long before the social movement in Europe was to advance similar demands.

([16]) Cp. B. de Las Casas, *Histõria de las Indias* (Col. de Documentos inéditos para la Historia de Espãna, Tomo 62-66. Madrid, 1875-76), Lib. III, cap. 4, Tomo 64, p. 365.

([17]) Ibid. Lib. III, cap. 79, Tomo 65, p. 257.

([18]) Ernst Samhaber, *Südamerika. Gesicht, Geist, Geschichte* (Landscape, culture and history). Hambourg, 1939, p. 196.

One splendid result of the missionaries' protest was that the question of colonial morality was now under debate in the home country. The most distinguished teacher of colonial ethics, among Spanish theologians of the 16th century, was *Francisco de Vitoria,* 'the brightly shining star of the Dominican order' ([19]). On November 8th 1534, he wrote to Miguel de Arcos, Provincial of the Andalusian dominican province: 'As regards Peru, I can inform your Reverence that having studied these matters at lenght and acquired much valuable experience in them, I am no longer appalled nor perplexed by the cases of conscience that come my way, with the exception of the insidious mischief over benefices, and Indian matters. When I think of these, my blood freezes in my veins' ([20]).

There were two other Dominicans, Soto and Bañez, and two Jesuits, Molina and Suarez, who greatly contributed to the elucidation of the problem of colonial morality.

We must now turn our attention to some theories, intolerant and unversalistic ones, for which a small number of upholders of colonial rule tried to find support in the mediaeval concept of *orbis christianus*. Indeed, certain mediaeval theologians had taught that the pope had supremacy over all heathen peoples. Vitoria refuted this out-moded theocratic idea, stating that 'the pope is not lord of the world', it was only 'the glossators who had bestowed this title of supremacy on the pope, though poverty-stricken themselves in both goods and capacities' ([21]). Consequently Christian princes have no more rights over the heathen '*with* the authority of the pope than they have *without it*' ([22]). The Jesuits held similar views. Molina declared that in purely secular matters the pope had power

([19]) 'Dominicani Ordinis fulgentissimum Sydus', as Juan de Solorzano Pereira termed him in *De Indiarum Jure,* sive de justa Indiarum occidentalium inquisitione, acquisitione et retentione, Tom. I, Lugduni, 1672, Lib. II, cap. 1, n. 33, p. 132.

([20]) Text of letter: Vic. Beltrán de Heredia, in *Anuario de la Asoc. Francisco de Vitoria,* Vol. XI, Madrid, 1937, p. 32 ff.

([21]) Fr. Vitoria, *Relectio prior De potestate ecclesiae,* publd. L. G. Alonso Getino, Tomo II, Madrid, 1934, p. 63, 66.

([22]) Fr. Vitoria, *Relectio De temperantia* (Anuario de la Asoc. Fr. de Vitoria. Vol. II, Madrid, 1931, p. 59).

neither over Christian states nor over heathen ([23]). Suarez qualifies the theocratic idea as 'utterly foolish and fanciful' ([24]). States whose law was based on the natural order existed long before the foundation of the Church. Therefore the heathen, when they become Christians, 'retain their own power, even within the Church: for after all they possess it by natural right and order' ([25]).

Not unrelated to the theory of papal world-supremacy was the doctrine that in worshipping idols the heathen constituted a terrible insult to God and should be punished and subjugated by Christians on that account. Francisco de Vitoria retorts, 'Lack of the true faith annuls neither natural law nor human law'. Whence it follows that their ignorance of the faith is not a reason for depriving the heathen of either their private property or their state sovereignty. 'There is no warrant here for the Christians to seize their goods and lands'. And even if the heathen refused to be converted after adequate and zealous preaching by the missionaries, the Spanish were not entitled 'to invade them and make war on them and plunder their property' ([26]). The Spanish King, he said, had no greater power over the heathen peoples than I over my fellow-citizens: 'after all, I cannot compel my fellow-citizens to go to Mass' ([27]).Dominicus Soto too denounced the idea of imposing the faith by force. He declared we ought to hand on the word of God 'for nothing' and not, like wolves, 'tear the sheep to pieces and gobble them up'. If people do not accept us, we should shake the dust from our feet and go else-where. Christ's arival among the heathen must be like his coming to Bethlehem, 'in kindness and friendliness to men'. We Christians are not specially appointed to forestall the Judgement Day and punish the heathen for their sins. Then he adds: But people say the heathen

([23]) *De justitia et jure,* Tr. II, disp. 29, n. 1 ff.

([24]) 'Haec omnia sunt vana et conflicta', Tr. III, *De charitate,* disp. 13, sect. 5, n. 4.

([25]) Fr. Suarez, *De legibus,* Lib. III, c. 5, n. 7.

([26]) *Relectio De Indis recenter inventis,* Getino II, p. 304, 345.

([27]) Fr. Vitoria, in II, II, q. 10, art. 8 (quoted from V. Beltran de Heredia, *Los Manuscritos del M. Fr. de Vitoria,* Madrid y Valencia, 1928, p. 199).

could be converted 'more easily' if they were first subdued politically. In just the same way, those who instigate nigger-hunts try to appease their consience with the assurance that it is a great piece of luck for the negroes to receive the Christian faith in exchange for their earthly freedom. Through all such acts of violence, says Soto, the faith is made 'to be hated and accursed'. It is 'of the inherent nature of the faith' to endure no compulsion. The faith 'is the law of freedom, as St Paul teaches in the eight chapter of the Epistle to the Romans' ([28]).

Not a few objected that even admitting it is wrong to oppress the heathen for lacking the true faith, yet the right to do so can still be upheld on account of the unnatural vices they indulge in. According to this way of thinking, the heathen can only accept the true faith when it has been adequately preached to them; the horrors of unnatural vice must be evident to all, seeing that God has written the natural moral law in all men's hearts. But Vitoria denounced such arguments as contrived and hypocritical. Rather than invent such specious theories, they would do better to declare outright that they see nothing wrong in making war on the heathen. However, Vitoria argued, would it not follow that the heathen were then entitled to fight us on account of similar sins on our part ? 'Indeed, he faithful have no more power over the infidels than the infidels over the Christians'. A logical consequence would be for 'the French king to make war on the Italians because of their sins against nature' ([29]). In a word, 'this theory has no trace of a sure foundation' ([30]).

In the following centuries Vitoria's and Soto's views were commonly known and accepted by Spanish theologians, as Dominicus Bañez records: 'Those opinions were afterwards taught by all teachers of theology, right into our own times ([31]).

([28]) D. Soto, *In IV sententiarum commentarii*, Tom. I, Duaci, 1613. Dist. 5, qu. unica, art. 10, p. 154 ff.

([29]) Vitoria is referring to sodomy which is said to have been widespread in Italy during the Renaissance.

([30]) *Relectio De temperantia*, l.c., p. 61, 67.

([31]) D. Bañez, *Scholastica Commentaria* in II.II. S. Thomae, Tom. III. Duaci, 1615, qu. 10, art. 10, dub. 4, p. 267.

And this is true of non-Spanisch theologians too, for instance Cardinal Robert Bellarmin. Their aversion to any form of theocracy was based on the recognition that the heathen State is, as Fr. Suarez wrote 'supreme in its own order' ([32]).

It is a surprise to find *Hugo Grotius,* 'father of modern international law', opposing the Spanish theologians; this was in 1625, when the Dutch East India Company was busy building up its colonial empire. Against those barbarians, he declared — 'More beasts than men' — who 'offend the natural law', war is something 'natural', even though 'Vitoria, Vásquez, Azor, Molina and others' hold the contrary ([33]).

Finally we may note that now and again in the 16th century, the emperor, as 'lord of all heathen peoples', tried to justify colonial rule. Vitoria declared categorically, 'the emperor is not lord of the whole world'. In any case, a world empire — even if it could be proved to exist — could only have relative sovereignty, and the emperor could in no circumstances 'annex provinces or give away cities and properties at will' ([34]).

The appeal to the natural law in 16th century Christian colonial ethics had farreaching consequences. For Christian and heathen alike the same high principles were valid, inherent in human nature. Thus personal freedom, the right to property and to state-hood was acknowledged for the heathen world as for our own. Neither lack of the true faith nor vices could invalidate the native peoples' right to freedom and independence. This was going a long way: in the nineteenth century the European powers were still basing their right to establish colonial empires on the principle that the state-hood of the native peoples — not being recognized by the civilized nations — was invalid. True, German colonial policy sought to obtain a footing in the colonial territories by means of 'protective treaties' with tribal chiefs. But protective power soon turned into full state power, for as *Otto Köbner* a German admiralty coun-

([32]) '...respublica infidelis, in suo ordine suprema', Tract. *De fide theol.,* Tr. 1, disp. 18, sect. 4, n. 3.

([33]) *De jure belli ac pacis libri tres.* ed. P. L. Molhuysen, Lugduni Batavorum, 1919, lib. II, cap. 20, n. 40, 3 et 4.

([34]) *Relectio De Indis,* Getino II, p. 320 ff.

cillor, put it, it was soon recognized that concessions to the tribal chiefs 'were a mistake' ([54]). When *Kasson*, the American delegate to the Berlin Congo Congress, proposed on December 22nd 1884, and again on January 31st 1885, that no more colonies be founded against the will of the native populations, he encountered general opposition ([55]).

The leading theologians of the 16th century were not concerned with such sweeping 'ideologies'. What they did was to reject with great firmness the fateful thesis that there existed men who 'by nature' were destined to be slaves. Pope Paul III (1534-1549), too, opposed this unchristian doctrine. The devil, he said, had inspired some of 'his satellites' with the idea that the native populations of the New World were to be forced 'into subjection to us like wild beasts'. And whoever dared to oppress or rob them would immediately be excommunicated ([56]).

But a refined form of 'colonial peoples ideology' is conceivable: suppose the personal freedom of the native peoples is guaranteed and their property too, and the existing state of political rule is acknowledged, and yet a certain amount of guardianship is considered to be advisable. Stress might be laid on the claim that what was envisaged was mainly an unselfish, civilizing action: one was there to educate the natives, not to oppress and exploit them.

To this Vitoria observes, 'I do not venture to express a firm opinion; but neither do I venture to condemn the idea outright' ([57]). Vitoria's hesitation came from the fact that in spite of all the reports he received, he could no really form a reliable picture of conditions the other side of the ocean. On the one hand he writes, people 'who have been among them' had told

([54]) Otto Kösner, *Einführung in die Kolonialpolitik* (Introduction to colonial policy). Jena 1908, p. 88.

([55]) Cf Camilo Barcia Trelles, *Fr. de Vitoria et l'école moderne du droit international* (V. and the modern school of internat. law). Paris, 1928, p. 163.

([56]) Text: Coleccion de documentos inéditos relativos al descubrimiento, conquista y organizacion de las antiguas posesiones españolas de America y Oceania. Vol. 7, Madrid, 1887, p. 414.

([57]) *Relectio De Indis*, Getino II, p. 378.

him that the Indians possessed less reason 'than in other nations children and lunatics', on the other hand, he insists that the native peoples of the New World are in truth not lunatics. Rather they are wise after their own manner. That is clear. For there is definitely some order in their affairs. There are well-ordered cities, there are orderly marriages, authorities, chiefs, laws, crafts and trades. All that is not thinkable without human reason. Moreover they have a religion of a sort. Nor do they go wrong about things that are self-evident to others' ([39]).

Suarez gives the teaching of the Spanish theologians in a nutshell when, refuting Aristotle's and Sepulveda's view that certain men are 'slaves by nature', he insists that the terms 'heathen', and 'uncivilized barbarians' do not mean the same thing. 'It is surely evident', he declares, 'that many heathen are more gifted and even in political matters more skilled than many Christians'. But even people 'who live without a human communal life, who go wholly naked, eat human flesh and such like', are only to be taken in hand 'in order to inculcate human dignity and give them just government' — a state of affairs which is extremely seldom, or 'never', likely to occur ([40]).

Everyone knows the story of the Jesuit reductions (1609-1767) and how they tried to turn the nomadic Guarani-Indians of South America into settled communities. In utter selflessness they devoted their whole energies to improving the lot of the Indians. The Jesuit Fathers observed that the Guaranis almost wholly lacked a sense of individual responsibility and forethought, and they found that their potentialities and capacities could only be developed by setting small groups of people to work together. At the same time the Jesuits believed education to be a necessary prelude to conversion to the Christian faith. As one of them declared, it was necessary 'to relieve these semi-men of their inborn animal ways and to inculcate in them an ethical, meaning a human, way of life to which they were hitherto wholly unaccustomed' ([41]). It is not to be denied that

([39]) Ibid., p. 309, 378 ff.

([40]) Tract. *De charitate*, Tr. III, disp. 13, 5, n. 5. (Opera Tom. 12).

([41]) C. Hazart and M. Soutermans, *Kirchengeschichte* (Church History), Vienna, 1648, p. 331.

the reductions reached an astonishing standard of economic well-being. This flourishing state of affairs — exceptional as it was under existing conditions — was made possible by the freedom from taxation in the reductions. While Spain drew a considerable income from the other colonies, the reductions were almost wholly absolved from such a burden. The national income remained in the country itself and was used partly to provide consumer goods, and partly for investment. To all who are ready to see the reductions in their true light, without prejudice, it is clear that they cannot at all be accused of 'exploitation'. The fact is, the Indians were atached to the Jesuits and loved them sincerely ([42]), and when the Jesuits were driven out in 1767, they wept as they bid them farewell ([43]).

Basing their arguments on the natural law, 16th century Spanish theologians denounced the encroachments of Christian states in overseas territories in lofty and courageous tones. Norms of an international ethic based on the natural law were laid down at that time, which deserve our fullest admiration. The same unreserved admiration cannot however be accorded of all aspects of the theories then current — even though supposedly based on Christian revelation and having social and theological implications. True, Spanish theologians generally recognized that compulsory conversion was a sacrilege, and incompatible with the freedom of the faith. And yet it was presumed that a certain amount of compulsion was to be allowed to accompany the preachting of the Gospel of Christ. For instance, Christian States assumed they were entitled to extract permits for missionaries by force. Vitoria declared, 'Christians have the right to preach and to spread the Gospel in the barbarians' prov-

([42]) In the thirty reductions which in 1732 numbered a round 141.000 Indians, there were only 80 Jesuit Fathers. Organs were built, clocks and musical instruments constructed, bells cast, cloth woven, statues carved. After the ejection of the Jesuits the buildings, churches and installations fell into disrepair.

([43]) On the reductions, cf. Pablo Hernández, *Organización social de las doctrinas guaranies de la Compañia de Jesus*. 2 vol., Barcelona, 1913. — Maria Fassbinder, *Der Jesuitenstaat in Paraguay*. Halle/S., 1926. — Magnus Mörner, *The political and economic activities of the Jesuits in the Plata region*. Stockholm, 1953.

inces', for Christ in commanding that the Gospel be preached to the heathen, gave the Church a real mission-law which can be enforced. So that if the heathen refuse admission to the missionaries or even perhaps kill them then there is warrant for breaking their resistance by force of arms ([44]). But Vitoria qualified this: 'If the barbarians do allow the Spaniards to preach the Gospel freely and unhindered, they may not be overrun with war nor their lands be occupied, whether they accept the faith or not' ([45]). So the Church had the right to enforce the preaching of the faith, but no warrant to punish the heathen if, having heard it preached, they rejected it.

It is a great pity that in interpreting Christ's command to go and preach to all nations, Vitoria did not turn it over in his mind again before pronouncing, for the consequences involved were grave. But like Vitoria, many other theologians of the 16th century took it for granted that this was what Christ's words meant. It was not always accepted without question, and for instance *Alfonso Salméron,* a Jesuit, was very dubious about it; commenting on the widely-held opinion that when the Indians opposed the preaching of the Gospel, war could be declared on them for the glory of God and for their salvation, he wrote, 'that always seems harsh to me', for war could only make the Gospel hateful to them ([46]).

It was *Bartolomé de Las Casas* who most passionately denounced as unchristian any use of force — even when the true faith was rejected. This noble bishop declared that 'our obligation to go out into the whole world and preach the Gospel necessarily pre-supposes that the peoples are willing to receive us and listen to us'. Christ's command to his apostles was that 'when in one city the people do not want to listen, they are to go on to another'. Far from causing fire to rain down on unbelieving Samaria, Christ pointed out to his disciples 'how peaceful, gentle, humble and kind the attitude of the servant

([44]) *Relectio De Indis*, Getino II, pp. 368, 371.

([45]) Ibid., p. 370.

([46]) Alfonso SALMERÓN, S.J., *Commentarii in Evangelicam historiam et in Acta Apostolorum,* Tom. 12. Cologne, 1604. Tract 38, p. 256; Tract 39, p. 262.

of the Gospel must be' ([47]). In las Casas' view, wars and missions are deadly foes. 'To plunder, to give public offence, to put people in prison, to mutilate, to de-populate whole kingdoms and make the Christian faith and the Christian religion a stinking abhorrence to the peaceable heathen' — that is no way to preach the Gospel of Christ: those are the evil deeds of cruel tyrants and foes of God' ([48]). God's will is done only when the preaching of the faith 'is convincing to men's minds through reasonable argument and gently appeals to their wills'. And that applies to 'all the peoples in the world, without regard to errors, sects or moral corruption' ([49]). While war is but a long chain of raids, violence, murder, robbery, plunder, devastation, profanation and inhumanity 'it is indeed nothing but general widespread slaughter and thieving'. Is that what is called bringing the religion of Christ to people ? ([50]) One can understand how, more than any other in his age, Las Casas suffered as he pondered over these things. Our start in America was abominable, he wrote, and all our actions in the New World were abominable, so that we can but repeat after Habacuc, 'In your own days, here be strange deeds a-doing so strange, a man would scarce credit them if they were told in story' (Habacuc 1,5 — Knox version). And he concludes, 'it is very unlikely that what has started so evilly can come to a good end ([51].)

III. *Results and Consequences*

It was not unintentionally that we allotted so much space to the views of the 16th century Spanish theologians on colonial ethics, for in the centuries the problem was never again attacked with the same vehemence and gravity, nor gone into

([47]) Disputa 6 controversia con Ginés de Sepúlveda, Madrid, 1908, p. 121 ff.
([48]) Ibid., p. 100.
([49]) *De unico vocationis modo*. Edition publd Mexico, 1942, p. 186.
([50]) Ibid., p. 187.
([51]) Respuesta del obispo D. Fr. de Las Casas al obispo de la Charcas, in Col. de Documentos inéd. rel. al descurimiento, conquista y organizacion de la antiguas posesiones españolas de América y Oceania, Tom. 7, p. 368.

so profoundly. Neither in the 17th century in the time of Dutch colonial predominance nor during the period of British colonial rule in the 18th and 19th centuries, did a colonial ethic of such dimensions emerge. On the contrary, the moral problems the situation poses were more or less neglected. In 19th and 20th century Catholic moral theology, colonial ethics hardly appear at all, although it was the time when colonial imperialism was reaching its zenith; and then, with its breakdown, new and grave problems arose. In the handbooks of the time — those by *Arthur Vermeersch, S. J.* ([52]), *Fritz Tillman* ([53]), *Mausbach-Ermecke* ([54]), and *Bernard Häring* ([55]) for instance, the colonial ethical problem was not mentioned. All the more is the achievement of the great Spanish theologians of the Golden Age to be honoured. That the eruption of the Christian conscience at that time was not without avail, is evident in 16th century Spanish colonial law: *Simpson Lesley Byrd* wrote of his surprise on finding 'that a government should be swayed so considerably by reasons of conscience' ([56]).

If European colonial rule is considered in the light of Christian principles ([57]), we shall have to admit in shame that in its more typical forms colonialism cannot stand up to the scrutiny of the Christian conscience. Violent overthrow of political independence, economic exploitation, and all kinds of humiliation were the rule, even through certain good aspects of colonial rule must be admitted too, for instance the opening up of the colonies and the provision of schools. Right into the 19th century, negro slavery was still habitual. It is calculated that in the course of centuries some thirty million negroes were carried off

([52]) *Theologiae moralis principia, responsa, consilia.* Rome, 1928.

([53]) *Handbuch der katholischen Sittenlehre.* (Handbook of Catholic moral teaching) Düsseldorf, 1940.

([54]) *Katholische Moraltheologie.* Münster (Westf.), 1954.

([55]) *Das Gesetz Christi* (The law of Christ). Freiburg i. Br., 1954.

([56]) *The Encomienda in New Spain.* Forced native labor in the Spanish colonies 1492-1550. Berkeley (Calif.), 1929, p. 150.

([57]) Compare for instance J. V. Ducatillon, O. P., *Théologie de la Colonisation,* in Revue d'Action Populaire, 1955, Nr. 90, pp 769-785. — R. Martini, OFM., *Right of nations to expand by conquest,* Washington, 1956.

to America, an appalling number when we recall that presumably just as many died in the course of the slave-hunts and on the transport ships.
Three consequences of colonialism demand our attention:

1. The age of colonialism is drawing to a close. States that endeavour to cling desperately to the remains of their colonial rule have not understood the signs of the times.

2. No one can look at the history of colonialism without admitting that the nations of Europe *must* come to the assistance of the former colonial peoples. And it must be unselfisch help, involving real sacrifices, not just a pseudo-charity appeasing to the egoistic mind, but ethically nil. The great Spanish theologians of the Golden Age laid special emphasis on the solidarity of all mankind. Vitoria taught that the whole earth is, in some way, 'one single common life' ([58]), or as Suarez put it, it is a unity 'that does not only depend on the sameness of the species in all men, but also has a political and moral character' ([59]). In theology, there is not only a human solidarity in sin (solidaritas peccati originalis totius generis humani), about which theologians have had sound things to say, but also a human solidarity in love (solidaritas charitatis totius generis humani), which has hitherto not been sufficiently elucidated. In the industrial age, the more mankind as a whole becomes a unity, the more are peoples of different races and civilizations our 'neighbours', the more must Christian love expand beyond family, relatives, neighbours, village, city and nation, to bow down at the feet of poverty and suffer with suffering folk in other parts of the world. The economic assistance for the so-called developing countries will greatly gain in importance in the next few years.

3. Western culture and civilization cannot be presented as a norm for the whole of mankind. Certain inventions of western minds have indeed made their way over the whole of the earth,

([58]) 'Totius orbis... aliquo modo una respublica': Fr. de Vitoria, *Relectio De potestate civili,* Getino II, p. 207.

([59]) Fr. Suarez, *De legibus,* Lib. II c. 19. n. 9 (Opera Tom. 5).

such as technology and industrialism, though it is not without significance that even these take on different forms among different peoples. Ultimately, it is the individual worth and the right to existence of all cultural groups that must be recognized. It would be foolish indeed not to admit that Europe has long ago lost its leading position and its special importance in the world. The centre of gravity has shifted and other continents have the lead in world events. All these developments and changes prove that for the modern world, a world becomes one through the technical revolution, and conscious of its one-ness, the law of mutual fertilization between different cultural groups must prevail, if world-wide catastrophe is to be averted. It is comprehensible that the former colonial peoples should for a time indulge in an exaggerated nationalism with a deleterious effect on the peaceful interchange of cultural activities. And unfortunately, in many former colonial lands, there is only a thin layer of educated people capable of guiding their country's fortunes. But it is to be hoped that conditions will settle down in course of time, and the advanced industrial states can contribute largely to this appeasement if they are prepared to provide not only economic help but also — so long as it is desired — assistance in the setting up of educational facilities and cultural activities.

Church and missions too must take the different cultural groups for what they are and accept them as such. We do not know how much longer the Church is to continue on her way through history. Perhaps there are still many thousands of years before our Lord returns in glory, so that what lies behind us is but a little piece of Church history; the Church of Christ is not bound to the culture and language of the Mediterranean region. And as the Church takes shape in the heart of different cultures, she receives as Christ's bride — *circumdata varietatibus* — new riches and adornment.

(Translated by R. M. Bethell)

EGBERT DE VRIES

Economic Imperialism

The expression *pseudo-colonial relations* is one that often crops up in regard to dealings between European countries and the United States on the one hand, and the independent countries of Asia and Latin America on the other.

Another current expression is *economic imperialism,* as opposed to political or military imperialism. It is worth while to analyse these terms in the hope of discovering what they imply and what value they have.

As an illustration of imperialistic action inspired by economic motives, the opium war is often cited (between Great Britain and China, 1840-1842). Other examples of the colonial type of economic imperialism would be the Boer Wars in South Africa, and the establishment of the South African Company in Rhodesia. The imposition of the will of the military stronger party for the purpose of acquiring economic advantages by direct and conclusive methods, engenders relations of a colonial or pseudo-colonial nature.

In these cases as in others, there is a traceable connection between political and military action on the one hand and immediate economic interests on the other. Geo-political considerations — a speciality of certain of Hitler's collaborators — are but the cynical expression of an imperialist policy based mainly on economic superiority.

Such a policy is most assuredly detestable. But it would be absurd to reduce all politics and all strategy merely to a question of cotton or oil, grass or hydraulic power. From this all-too-simple standpoint amateur historians and economists are fond of re-writing the history of the world. The unconvincing simplifications of Zischka in his books on raw materials and world politics are notorious; but this has not prevented them

from making a great impact on economically weak countries.

We come across the expression *economic imperialism* in yet another context: when large business concerns plan expansions in foreign countries, hoping to take advantage of an unreliable political climate to rake in considerable profits — while relying on their governments to 'intervene energetically' to protect their interests, should the political situation deteriorate.

In such cases, the initiative comes from capital in search of profits. The classic example is the *United Fruit Company* and its ramifications in the Central American republics. The American navy, like British gunboats in the time of the *Pax Britannica,* was kept busy serving the immediate interests of certain specific firms, but it was not deliberately fostering an imperialist policy.

During the period of undisputed *European* hegemony, economic or military as the case might be, in the period between 1825 and 1914, it was less important that a line be drawn between economic, political and military expansion: there was always a power in the background ready to back any action deemed necessary.

But after the first World War, when European hegemony was broken, or at least put in doubt, *economic imperialism* was in a position to engender wars on its own account, even on a world-wide scale. Now no one would deny that a country is entitled to make use of diplomatic or political means to defend its legitimate economic interests. But while doing so it must be careful not to infringe the legitimate interests of third parties; nor may its actions constitue a threat to peace.

In what circumstances does *economic imperialism* tend to dominate foreign policy ?

Who is responsible for inventing the term ?

It is a curious fact that the origins of the expression *economic imperialism* are equivocal. In Europe in the second half of the nineteenth century, it served chiefly do denote reciprocal jealousies. Those not in a position to occupy overseas territory and turn it into a colony or protectorate, used it as a term of

abuse about any European power that succeeded in doing so. It likewise occured in countries like China and Thailand, and also South America, every time a monopoly was conceded.

British endeavours to put these things in order and regulate them fairly by means of zones of interest were dubbed 'treachery' by countries not participating in the conventions. Indeed, the consequence of British supremacy at sea was, that it always obtained a share of the 'booty'. But such recriminations were merely part of an European family quarrel.

All this changed when Lenin come to compare economic and political relations in Europe and outside Europe to class relations as they existed within European countries. Though an extremely improbable analogy, it served as a magnificent tool for bolshevist propaganda, declaring as it did that in exchanges between capitalist countries and those not yet capitalist, the latter were always duped and exploited. No need for material and statistical proof: it followed from the marxist doctrine of values, which pre-supposes the presence of a victim when exchanges are made. At that rate, there are no economic dealings that will not give rise to some kind of abuse, while the more these dealings are intensified, the more will 'abuse' increase. Though imperialism may appear in many diffferent forms, economic imperialism will always be a component. Affirming as they do the primacy of the economic structure of society and economic relations, marxists and leninists could hardly be expected to reach a different conclusion.

Thirdly, national socialism, with a priority on state interests, endowed the term with yet another meaning, thanks to Haushofer's geo-politics. To begin with, individual or business interests are subordinated to State (that is, Party) interests. All activities, and particularly those centred abroad, must reflect this subordination. The State will support such economic activities (cultural activities too) by all possible means, so long as they toe the party line: by neo-mercantilism, governmental decrees and even violation of conventions.

In the fascist system, the elementary evidence admitted by marxism is raised to the dignity of a virtue: imperialism as such is a good thing; economic imperialism is what results

from it and what gives it scope. All economic ventures, other than one's own, therefore constitute an obstacle which it is worth putting all one's energies into overcoming and if possible subordinating. The political means to achieve this end are conventional ones, degrading the other country to the status of a 'satellite State'. In the thirties, the German government tried by this method to expand German markets in numbers of countries. During the war, Japan similarly created or recognized satellite governments in 'The Coprosperity Sphere of Greater East Asia'. These German and Japanese experiments came to a sudden end in 1945.

But the Soviet Union began, even before the second World War, constituting a network of satellites from which she expects close economic (and political) collaboration. The outcome of the war greatly accelerated the process. But Yugoslavia's defection and return to independence in 1948 was particularly painful for the Soviet Union, precisely because a satellite can never be accorded freedom of choice in matters of commerce or investments. Attempts can be made to camouflage the situation by means of regional economic conventions, but the fact remains that the economies of Czeckoslovakia, Hungary, East Germany, Rumania, Bulgaria, Poland, etc., all subserve communism, and the end in view is much easier to achieve if they also subserve the dominant nation, that is to say the Soviet Union. Conflicts of interests are inevitable, but even with China, the Soviet Union must have the last word.

There remains a fourth context for the concept of economic imperialism: in Latin America the term is used to designate the ambivalence of relations with the United States of America. In South American countries, close economic relations with North America are desired, when there is a hope that large amounts of capital will accrue. But at times the American companies are looked upon with suspicion: their imposing structures foster the belief that they are making fabulously large profits, and it is then that accusations of economic imperialism are likely to be raised. In reaction, an economic nationalism develops. In the name of political independence, it asserts the right to treat foreign installations and assets as arbitrarily as it

chooses. Then the legal basis of the treaties and the contracts in force is undermined, and civil rights are threatened. Clearly cases will always arise where accusations of economic imperialism will be levelled to justify arbitrary action.

The situation as it is now (1950-60)

We live in the age of the United Nations, GATT, and numerous other attempts at economic cooperation; it is also the age of the decline of the colonial system. Does economic imperialism still exist ? The old form of assertive action supported by gunboats or planes — dating from the nineteenth century — is now largely outmoded. Where such methods are still in use, as in the Anglo-Icelandic fisheries dispute, the cause is not a conflict of interests but divergent interpretations of certain legal concepts. Once sovereignty is fully recognized, direct military action is out of the question. Unfortunately there are still too many unsettled disputes of this kind.

The fascist philosophy has been condemned, Japan and Italy have forfeited the economic and territorial conquests undertaken in the name of that philosophy. But Soviet Russia still officially maintains satellite States as an integral part of her philosophy.

However, most important of all is the position of a company using foreign capital in under-developed countries, whether under foreign management or not. Here a trend towards economic imperialism can create a situation dangerous to peace. Here too unjust accusations can act as a brake on economic development or become serious obstacles.

In the non-communist world, whether industrialized or not, such problems must be given very grave consideration. For if one does not desire or need to consider oneself a satellite of the 'West', one is ready also to fight for the right not to become a satellite of the Soviet Union or China. In practice, the 'protection' accorded by the so-called popular democracies is only sought when there is a sense of being treatened or abandoned by Europe or North America.

At this point, it will be as well to distinguish clearly between

the various types of problems. And indeed, looking at everything from the same angle gives one a blurred picture and it becomes difficult, if not impossible, to judge.

a) *Problems of de-colonization*

Problems of a particular kind are those of Indonesia and the Congo, as of other territories that have gained political independence since 1945. In the colonial period, whether *de lege* or merely *de facto,* the country's economic condition depended on companies that stemmed from the homeland.

After the transfer of sovereignty, measures directed towards economic autonomy have to be set on foot. Experience, harsh and cruel, has shown that the duration of this process cannot be reckoned in terms of generations or even decades: things have to move quickly. New developments must be encouraged if sudden perturbations in economic relations are to be avoided. Let us now look at the methods used so far, sometimes with success:

1) the sale of property to the citizens of the country, as in the case of tea plantations in Ceylon;
2) accelerated training for future business managers, for example by means of short-term 'management' contracts;
3) 'joint ventures' in a spirit of common enterprise between nationals and foreigners, particularly in the case of new projects;
4) the devolution of property to other foreigners so as to diminish monopolistic pressure.

But most important of all, as is proved in India and Pakistan, is the creation of a satisfactory juridical order for home and abroad, the elimination of fear that the transfer of sovereignty might not have been complete, and finally, a strong government. It must be admitted that these are large requirements which it will not always be possible to meet.

b) *Problems of very large companies*

In certain cases — the big oil concerns, or the West Africa Company — exceptional responsibility falls on the top manage-

ment. Technical and economic considerations make industrial concentration inevitable; but this always involves a concentration of power too. The governments of the countries where such a company has its installations are largely tributaries of the company as far as their economic development goes. It may then happen, as it did in Mexico, and in Iran under Mossadec, or in the case of the Suez Canal, that in order to extricate itself the government will fall back on nationalization and sequestration. In other cases, as in the oil-producing Arab countries, an attempt may be made to confront the international companies with a coalition of governments in order to obtain a lager share of profits. But on the whole there is a good deal of mutual give-and-take, because, after all, each needs the other.

However, industry itself could well take certain positive measures without necessarily imperilling its own existence. One way is the elimination of arbitrary fluctuations in a company's activities. Whole regions may sometimes be victimized by falling prices due to variations accountable to 'technical requirements' of raw materials. Vegetable oils are a case in point. In industries concerned with extracting ores or oil from below ground, it is easy for short periods to do without the products of a given country. Therein lay Mossadec's mistake. The same mistake occurs frequently in Indonesia, where there is a tendency to put one's trust in pre-war situations and overestimate terribly the degree to which one is indispensable to world economy. However, such miscalculations and mistakes in no way diminish the basic responsibility of the big international companies. These can and should undertake the training of personnel, and see to it that the economy is properly diversified if its present base is too unilateral, etc... Ultimately, all this is in the interests of the company itself.

c) *Problems of public utilities*

These concerns — railways, public transport, power, water, telecommunications — must inevitably be monopolistic in under-developed countries, while they are nothing of the sort in

the United States for instance. When they are privately owned, specially if the owners are foreigners, they depend on a concession or charter.

The public relations involved soon engender difficulties on both sides. To begin with, the foreign monopoly is often only grudgingly granted. But capital is trapped too: permanent installations are essential. In times of inflation, it is possible to wear down or weaken the undertaking by means of price policies (maximum tariffs). In South America, most North American or European businesses in the public utilities sector earn too little to keep the concern afloat, which means that expansion is out of the question. Mostly it ends in inglorious liquidation or nationalization at a loss. However the recent purchase by the Mexican government (with the help of American capital) of the Belgian electrical society in Mexico is an example of a happy solution.

In many cases the best solution consists in a gradual takeover by mutual consent or, should occasion arise, an acceptance by the withdrawing owners of a binding debt to be repaid at fixed rates of interest. Another measure that can be recommended is a transfer of capital investments, for instance to industrial concerns.

d) *Problems of the world market*

Another grave problem which provokes accusations of economic imperialism is the absence of a sound sub-structure to world economy, in the shape of conventions and international regulations.

It would postulate reasonable stability in prices of raw materials. It would also postulate an equitable treatment of exports of industrial products (still inconsiderable, but rapidly increasing) from countries which also produce the raw materials. This trend (observed in Japan, Hongkong, India) may seem strange, but it is equally strange that countries like Holland, New Zealand and Denmark export milk products to mainly agricultural countries, and that North America keeps the whole world alive on its surplus corn. But there are no

regulations, no effective organs to stabilize the world market in its entirety. And when the price of coffee falls, or when the United States protect their home produce of zinc or copper by means of quite modest duties, accusations of economic imperialism are heard on all sides.

e) *Problems of economic nationalism*

Lastly let us take a look at things from another angle altogether. In the twentieth century everyone agrees that governments are entitled to favour the economic and social development of their own countries. The same is true of foreign economic relations.

The result is economic nationalism, on a practically limitless scale. GATT, with all its scope for setting up new precedents, has endowed governments with a complete arsenal of economic armaments. In attempts at European cooperation, and in Benelux itself, it is the agricultural clauses that are the stumbling block: economic nationalism will not give way. When the great ones, the strong ones, the industrial countries act thus it is economic imperialism; when it is done by the weaker ones it is called anti-imperialism. In fact, the whole thing is but a camouflage to protect the interests of a new capitalist class.

f) *Problems of foreign capital*

In the present situation payments on foreign capital are a matter of mutual interest. They are legally in order when the rules of international relations are properly observed, and it lies in the direct interest of those who made past investments to observe these rules. But it is in the interest of under-developed countries too, to have an undisturbed flow of capital and scientific knowledge coming in from abroad. There is an inherent danger in economic nationalism which, motivated by a justifiable fear of economic imperialism, may deprive foreign capital of the very conditions for its influx. It is a case of throwing out the baby with the bathwater. Here international consultations are the best method of discovering the happy mean.

Conclusion

It is in the interest of world peace, freedom, economic development and stability, that economic imperialism be dammed up. But this should not be demanded of the larger countries alone, but be counter-balanced by a reduction of economic nationalism in all countries, whether industrialized or in process of development. And the basic responsibilities of the managements of large companies need to be fully assumed. Here are rather big imperatives. But in these matters too it must be remembered that peace is indivisible.

(Translated by R.M. Bethell).

SEAN F. LEMASS

Time for Action*

In the world in which we live there are countries producing an abundance of food which they sometimes have difficulty in selling, but in many other countries there are peoples who suffer from chronic malnutrition. Ireland is in the first category. In the second category are the countries of the Far East, Africa and South America, where the masses of the populations are chronically undernourished and the daily calory intake per head of population averages only about 2,000, compared with 3,500 in Ireland. The low nutritional standards of the majority of the world's population, contrasting with the adequate and even superabundant level enjoyed by a minority of countries, is the essence of a grave problem, which should prevent us from complacently counting our own blessings to the exclusion of consideration of the pressing wants of others. We must therefore give thought to how we can, in thanksgiving to the Almighty, make an effective contribution to improvement of conditions elsewhere. The solution of this problem provides a challenge to all who are concerned with the preservation of our civilisation. It is no exaggeration to say that, unless it is solved, civilisation may be overwhelmed.

However, the idea of international responsibility for freeing the world from want has now taken root. This is a very big step forward. International cooperation and action are now recognised as necessary if the conditions essential for development in the poverty-stricken regions of the world are to be

* Based on an address delivered by Mr. Seán F. Lemass, Taoiseach (Prime Minister of Ireland), at the International Social Study Congress, Dublin, 26th June 1960.

created. The 'I' m all right Jack' mentality which dominated the world for so long is at last fading.

To what extent and in what manner can a small country like Ireland make a worth-while contribution to the world problem ? Any financial contribution which we can afford is a mere drop in the ocean of want, but there are, it seems to me, other ways in which we can help. Many of the new nations which have recently emerged in the world, or are now emerging, suffer not only from economic and financial but also from administration handicaps. Often they encounter very serious difficulties in building up administrative institutions and services suited to their needs, and their leaders often emphasise in private conversation the magnitude of this problem for them. That is one sphere in which the small, progressive nations of Western Europe, amongst which we count our own, can give a very useful helping hand to those countries now struggling to nationhood.

We have been giving consideration to the extent to which help from Ireland can be made available to new countries facing these problems of administration. Ireland is well fitted to help newly emerging nations with technical aid and advice. We have very good educational and research services, and have ourselves experienced all the teething troubles of nation building. Irish people have a natural sympathy with countries now coming to independent status. Above all, we have a high proportion of citizens willing to dedicate themselves to the ideal of ministering to the spiritual, cultural and material wants of the world.

In one respect Ireland has for many generations made a substantial contribution to the progress of less advanced overseas countries. There are few places where you will not find today an Irish missionary, bringing to the people among whom he lives, as did his predecessors in Europe in the Dark Ages, the light of the Faith and the benefit of learning. For its size, indeed, Ireland has an extraordinarily high proportion of missionaries in foreign countries. The primary function of the priests is, of course, to spread the Gospel, but in many countries they are also doing excellent work in the field of secular

education and are helping to develop the peoples of the new countries in which they labour according to those principles of Christian conduct which are the best guarantee of the pursuit of policies of foresight and wisdom. Furthermore, our missionary movement overseas comprises, in addition to priests, large numbers from the teaching and nursing orders, both brothers and nuns, working for the wellbeing and advancement of the people among whom they live.

It is this Irish missionary tradition which has suggested to us a useful method of helping. We have decided that we can make up for deficiencies in the financial contributions which we can afford to this world problem by making available Irish experts, whether public officials or professional men, for varying periods to the new countries. We are making known to them our willingness to help in this way.

Under the auspices of the United Nations or its Specialised Agencies, Irish experts have already participated in such different undertakings as organising the medical services of Indonesia, codifying the laws and drafting the Constitution of Ghana and revising the system of administration of Colombia, to name but a few of their assignments.

In many ways Irish men are obvious choiced for tasks of this kind in new countries. Apart from their personal qualities, they have many advantages, arising from circumstances peculiar to this country, to make them readily acceptable abroad. Our record is, for instance, free from any taint of imperialism or colonialism. The ideas of costs and possibilities to which we in Ireland are accustomed are closer to those of many of the new States than are those of bigger, more wealthy and more highly-developed Powers. We have decided that we can afford to make available to those countries, on conditions which should prove attractive to the persons concerned, trained personnel to help them in organising their public services and in the formation of an efficient and competent body of administrators. State officials will, where feasible, be given leave of absence from their posts in Ireland to serve those new countries which ask for help of that kind until such time as they have imparted their knowledge and experience to local offi-

cials and have helped them to establish effective machinery for administering their countries. Where professional men are needed, the Government will be willing to help in the selection of those with the desired qualifications and facilitate them in taking up their new duties. Furhermore, we are making known our readiness to admit here for training, both in our Government Departments and in our State or semi-State bodies, a certain number of personnel from these developing countries who consider that such training would help them.

I have already referred to the activities of our missionaries, but there are other Irish men and women doing useful work in these countries: Irish doctors and engineers are to be found in many developing areas of the world, and we are happy to welcome to Ireland substantial numbers of young students from new countries who attend our colleges and universities. In this way, we are already making an unspectacular, but I feel fruitful, contribution to the solution of the problem of a world in want.

We have recently completed arrangements by which qualified Irish teachers will be facilitated in spending up to three years teaching in the newly-independent countries of Africa and which ensure that this service will be reckoned for salary incremental purposes as service in Ireland.

One can understand the impatience of people who ask why some means cannot be found of utilising unused production capacity in this and other countries for the purpose of feeding hungry and undernourished populations. One can appreciate also the spirit of charity which impels people to demand that some of the growing wealth of the great industrial nations be applied towards financing the distribution of surplus food production amongst people in want. As emergency measures of relief, such suggestions for feeding the hungry are commendable, but a policy confined to emergency reliefs and grants will do nothing permanent to eliminate those structural defects which are the fundamental cause of human distress throughout most of the world. By structural defects I mean those shortcomings, economic, social and political, which prevent the balanced development of resources: resources which

any man, seeing the achievements of science in other directions, cannot but believe are adequate to the needs of an expanding world population.

The underdeveloped areas of Asia, Africa and South America, with their teeming populations numbering about five-sixths of the world's total, suffer from lack of education and technical knowledge, inadequacy of social amenities such as health services, housing and transport, absence of effective marketing organisations, shortage of capital and so on. The affluent one-sixth of the world's population, which is found mainly in Europe, North America and Australia, is under an obligation to the remainder of the world's population to help to rescue them from want, hunger and malnutrition by providing capital, technical skill, advice and, last but not least, markets for their products. All will be glad to note that the major Powers are becoming more and more conscious of their responsibilities in this direction. A good example of this is the establishment of the Development Assistance Group in which the capital-exporting countries consult on methods of expanding and improving the flow of assistance to the less developed regions.

I am convinced that the most effective way we in Ireland can help, otherwise than as I have already indicated, is through the international organisations of which we are a member. Such organisations provide a forum from which world opinion may be influenced and machinery through which remedial action can be taken. We accept that we have a duty to make our voice heard within these organisations and to support all constructive proposals directed towards providing the remedies which only coordinated international action can supply in sufficient measure.

We do not consider it enough, however, for our people to sit back and leave everything to the Government. In a field of action embracing the whole of mankind it is particularly important that the individual citizen should think in terms of 'we' rather than 'they', whether 'they' be simply 'the powers that be' or the unnumbered millions of undernourished humanity.

It is important that we should all realise not only the magnitude of this problem but also the urgency of solving it. An example of timely action in which all can assist is the world-wide 'Freedom from Hunger Campaign' launched by the Food and Agriculture Organisation of the United Nations. The idea of this Campaign springs from a realisation that concerted action is required on a world-wide scale to tackle the problem of hunger. The essence of the Campaign is human solidarity. Nations, international organisations, church and civic bodies, foundations, local groups and even individuals can give assistance, however modest, to help in alleviating human suffering and in paving the way for a better world, where improved economic and social conditions will bring more security. The very spirit of the undertaking is that of goodwill and good neighbourliness. The end objective is the kind of constructive work which will eventually break the vicious circle of poverty and stagnation and enable people to fend for themselves.

Although our financial resources are small in relation to world needs, my Government, anxious to do what they can to ensure the success of the 'Freedom from Hunger Campaign', have made a contribution of $ 10,000 to the Campaign Trust Fund. A Government contribution will not, however, suffice to clear the Irish conscience. In the five years that the Campaign will last, we hope that much more will be done to further its objectives by public Departments and bodies, technical and professional groups, charitable organisations and so on down to individual Irish men and women. Measures have already been taken to ensure the co-ordination of these efforts in Ireland.

It is obvious, of course, that the Campaign's long-term aim of removing the basic causes of hunger will not be achieved in five years. The economic, social and institutional conditions which are necessary in order to obtain the best results from the application of science are not easy to bring about. A start has, however, been made. Even if, at the end of five years, the only achievement is a world-wide awareness that the problem of hunger can be solved by the production of sufficient food, the Campaign will have gone a long way towards justi-

fying itself. Finally, we must at all times remember that contributions for the development of less developed regions cannot be of a once-for-all nature. Awareness of the problem must be accompanied by a readiness to explore the most effective forms of aid, and a willingness to contribute assistance in the form of capital, materials, expert advice or training facilities, that must last as long as the yawning gap between rich and poor regions remain as a challenge to man's charity and ingenuity.

JOHN F.L. BRAY

Riches and Poverty

In an address to the first International Congress of Economic Science held at Rome in September, 1956, Pope Pius XII said: 'You cannot weigh too carefully your conclusions and decisions. These should be based on scientific reasoning in full accord with the laws of thought and of human nature; they should take full account of economic realities and of the facts of the situation'.

'In the world of to-day there is a grave antithesis between the peoples of the underdeveloped countries who are becoming more and more conscious of their immense needs, and the well-to-do nations who are abundantly provided with both necessities and luxuries'.

'The Classical Economists imagined that they could build up a sound body of doctrine by treating economic facts as if they were physical or chemical phenomena, subject to the determinism of the laws of nature. The glaring contradiction between the theoretical harmony of their conclusions and the terrible social miseries of the modern world should have warned them that they were in error... They had neglected one important factor — the human element'. 'They had ignored the relations that bind the individual to society and impose upon him rules of conduct which tell him that material goods have been created to serve the needs of all. The fruits of the earth no longer serve the common weal. They have become the means whereby the strong exploit the weak'.

Capitalist economics said Pope Pius XII is determinist. It denies man's free will; it denies God's morality and God's justice.

The Pope urged his audience of economists to essay a new approach, and to take to heart the words of Our Saviour: 'Seek

ye first the Kingdom of God and His justice, and all these things shall be added unto you'.

A new approach needed

It seems then that to arrive at a solution of the problem of poverty, we need a new approach based on a study of the facts of modern economic life and an awareness of man's free will, of man's sin, and of the claims of God's justice.

The present paper is intended as a contribution to this new method of study.

The economic facts

We note four salient facts:

I. The fact of progress.
II. The fact of widespread disparity in incomes and wealth within the capitalist countries, and between the industrial and trading countries and the needy countries.
III. The fact of desperate poverty among the needy agricultural peoples.
IV. The fact of deliberate excessive expansion of money supplies in all countries.

Let us consider them in order.

I. *The fact of progress*

At the Rome Congress, Professor Haberler defined 'progress' as 'a sustained increase in output per worker or real national income per employed worker'.

The Paley Commission showed that in the 50 years 1900/1950 the national income *per head* of the U.S.A. reckoned at 1939 prices grew 166 % from $ 325 to $ 864, equivalent to an annual growth of 2 % per annum compound.

A chart published by the Federal Reserve Board of the U.S.A. in September, 1960 showed that agricultural output in the

U.S.A. increased 100 % in the 49 years 1910/1959, while the numbers employed in agriculture fell 43 %.

This amounts to an increase in output per employed agricultural worker of 3.6-fold in 49 years — equivalent to $2\frac{1}{2}$ % per annum compound.

Figures published (in Chart form) by Dr. Stern in *The Banker*, and brought up-to-date from United Nations publications, show that manufacturing output increased 20-fold in the 88 years 1871/1958. This is equivalent to $3\frac{1}{2}$ % per annum compound. The line of growth is well-nigh continuous from 1871 to 1913. It is broken by the 1914 war and by the 1929/32 collapse. It is broken again by the 1939/45 war, but has been vigorously resumed, without a break, since 1945. During the 1929/32 collapse there was widespread and calamitous unemployment.

The evidence, therefore, is of a continuous increase at the rate of about $2\frac{1}{2}$ % per annum (in peace time) in output per worker in manufacturing industry and in agriculture. The modern capitalist economy is dynamic; it is progressive: and this progress is continuous (in peace time).

The nature of progress

This steady increase in output per worker results from the steadily growing substitution of mechanical energy for human energy.

It depends upon four factors:

(i) new inventions and ideas for technological improvement;
(ii) a growing production and use of raw materials;
(iii) a growing production and use of mechanical energy — derived from coal, oil, natural gas, hydroelectric power — and now atomic power;
(iv) the utilisation of growing amounts of capital derived from savings.

All four of these factors are necessary for progress. The last named is all the more necessary because the new machinery and processes tend to be more costly per unit of output than the less efficient machinery and processes that they supersede. On the other hand, there is a continual tendency for the use

of raw materials and power per unit of output to diminish.

In the early days of progress a man would set aside (i.e. save) part of his income and use it to buy raw materials, mechanical energy and machinery of an advanced type, designed to produce (say) 50 % more goods with the same number of workers. As time went on and the new machinery becomes more complicated and costly, the savings of one man or of his friends became insufficient.

Nowadays, a man will 'invest' his savings in large scale enterprises managed by men who may themselves have no financial stake in the concern that they manage.

We have reached the stage of the 'managerial revolution' described by Burnham.

The prophecy of Malthus

Some 200 years ago Malthus observed that the available cultivable acreage of land in the world was rapidly being used up. At the same time, the population of the world was expanding in geometrical progression. He prophesied that within a measurable space of time the world would be heading for starvation.

Progress in agriculture is the answer to this dark prophecy. It makes possible a steady increase in output per agricultural worker, a steady increase in output per acre of land, a steady increase in the acreage of cultivable land. There is no inexorable law whereby the growth of population must outstrip the growth in food production.

II. *Disparity of incomes*

(a) *Within a country*

The economists have discovered that in any one country the distribution of incomes follows a so called law represented by the 'Pareto line'. With a constant 'Pareto coefficient' this

would mean that, as the national income grows, the proportion received by incomes over (say) £ 10,000 would be constant; the proportion received by incomes under (say) £ 500 would be constant. The arithmetical disparity of incomes would grow all the time (the effects are modified by direct taxation). Colin Clark has pointed out that the 'Pareto coefficient' tends to fall with rising prices — that the disparity of incomes tends to increase as prices rise.

(b) *International disparities*

According to the United Nations statistics there were in 1957 13 industrial and trading nations with a national income per head of over $ 500 per annum. Their average income per head was $ 1,442 and their combined populations amounted to 387 million. There were 7 countries with an income per head of $ 77 or less. These countries had a total population of 531 million with an income per head of $ 59. Their populations were mainly agricultural. In India, for example, with its population of nearly 400 million, it may be estimated that 90 % of the population were rural.

The 'free world' is composed of some 600 million of people in N. America, W. Europe, S. Africa, Australia, New Zealand (with Japan a doubtful starter). These people are engaged mainly in industry and trade, and their national income per head ranges from $ 250 in Japan to $ 2130 in the U.S.A.

There are about 1,000 million in Asia, Africa and S. America with incomes of $ 100 per head or less. These people are mainly engaged in agriculture. They are the needy agricultural peoples.

III. *Agricultural poverty*

The needy agricultural peoples are desperately poor. And we note another disquietening fact. All over the world there is a steady migration from the countryside to the town.

In the 7 years 1952/9 the working population of the U.S.A.

grew 7 % from 61,300,000 to 65,580,000. The number of workers engaged in agriculture *fell* 14 % from 6,805,000 to 5,836,000.

The population of Eire is diminishing as a result of migrations mainly to Great Britain; the Bishops of Upper Volta recently deplored the migration of their young people to the towns of Ghana. The Governments of the underdeveloped countries are all seeking to increase the standards of living of their peoples by industrial development. Agriculture does not pay. Yet it is clear that this rural depopulation may lead to an insufficient growth in food production, to widespread famine.

These are facts of modern economic life in the free world. They demand an explanation; they cry out for a remedy.

Let us now look at our fourth fact.

IV. *Debasement of money*

The steadily growing output of goods that has occurred in the past 100 years has been accompanied by rising prices everywhere. It does not make sense.

In the past 100 years, prices in the U.K. and the U.S.A. have risen 3-fold; in other countries the debasement of money has proceeded much faster — even to extinction.

Now, when a bank increases its issues of notes and demand deposits (money) it does so in one of two ways. Either it *pays* for the new money by buying gold in exchange: or else it creates the new money by a stroke of the pen, and uses this newly created money to make Advances or to buy securities.

This excessive growth in money supplies throughout the world has been due to enormous outpourings of paper money — notes and demand deposits, deliberately created by book entries.

Creation of Money

Creation of money has two effects, the one immediate, the other long term.

The immediate effect

A Government that fails to pay its way by taxes and borrowings from the public will be forced to 'borrow' from the banking system.

This 'borrowing' will usually take the form of newly printed Treasury Bills perpetually renewed. These Treasury Bills are 'sold' to the banks in exchange for a demand deposit or for notes — newly created money.

In his book 'The Portuguese Bank Note Case' Sir Cecil Kisch pointed out that the effect of his creation of money by Governments is 'to divert some of the national wealth to themselves', 'to visit a fractional loss on all holders of money or parties with claims in money'.

During the German occupation of France, the German extracted an 'indemnity' of frs. 865,000 million by the simple process of drawing newly created bank notes from the Bank of France and *spending* the newly created notes in France.

The long term effect

The additional spending power so created tends to send up prices or to prevent prices falling as much as they otherwise would. This is the long term effect.

The requirements of justice

In the Book of Proverbs, Chapter 20, Verse 10 we read: 'Diverse weights and measures, both are abominable before God'.

If a merchant, engaged in buying and selling, uses light weights or short measures for the sale of his goods, he deliberately defrauds his customers and commits a gross injustice.

But the monetary unit is also a 'measure'. If, in the interval between buying and selling (which may be a long interval) the unit of money is debased, it would follow that merchants, albeit unwittingly, defraud the buying public and gain an unjust increase in their incomes.

The question is: what constitutes 'debasement of money'? How rapidly ought the money supply to be increased from the point of view of social justice?

If prices rise, it would seem that the expansion of the money supply has been excessive. Other things being equal, it may be thought that *steady prices* would promote social justice. In the Middle Ages this idea was enshrined in the principle of the just price. But in present circumstances of progress it cannot so readily be assumed that steady prices will promote justice.

Progress and prices

Consider the case of a progressive community in which 60 % of the output is provided by progressive industries and 40% by non-progressive industries. Let us suppose that over a period of 20 years the man-power in both the progressive and the non-progressive industries expands at a rate of 1 % per annum. 'Progress' in the progressive industries is going forward at a reat of $2\frac{1}{2}$ % per annum, so that their output is increasing at $3\frac{1}{2}$ % per annum.

The total output initially is valued at £ 20,000 million.

Let us suppose that the progressive industries are able to sell their increasing output at unchanged prices, and the non-progressive industries are also able to secure unchanged prices. Prices are steady.

At the end of 20 years the sales value of the output of the progressive industries will have grown at $3\frac{1}{2}$ % per annum from £ 12,000 million to £ 24,000 million. The sales value of the output of the non-progressive industries will have grown at 1 % per annum from £ 8,000 million to £ 10,000 million. Total sales value of the community's output will have grown from £ 20,000 million to £ 34,000 million. If there had been no progress in the progressive industries, their output would have grown at 1 % per annum from £ 12,000 million to £ 15,000 million. So the effect of progress has been to increase the sales value of the progressive industries by £ 9,000 million. Without progress, the sales value of the community's total output would have grown at 1 % per annum from £ 20,000 million to £ 25,000

million. The effect of progress has been to add £ 9,000 million to the value of the community's output.

It follows that, in the circumstances outlined above, the whole of the benefit of progress will have been garnered by the progressive industries for distribution between the capitalists and the workers; between the men who save and the men who work.

The 'social conflict'

We may put the matter more simply. We have a community in which the working population is expanding at 1 % per annum, and 'progress' is going forward at 1.7 % per annum so that the community's income, at steady prices, expands in 20 years from £ 20,000 million to £ 34,000 million, of which £ 5,000 million is due to the increase in the working force and £ 9,000 million is due to 'progress'.

In such a community, a man who cannot increase his income will gain no benefit from progress.

In such a community, the wage earner can increase his wages either because the employer willingly grants him an increase in wages, or else because the worker demands and secures an increase in wages.

Suppose the employer resists demands for increased wages. If the worker is unorganised he will have no chance. He will have to submit. The capitalist will grow steadily and rapidly richer. If the worker is strongly organised, he will press for higher wages; the employer will resist his demands. There will be enmity between masters and men, there will be strikes.

In an 'acquisitive society' in which men desire riches, a condition of progress with steady prices leads to the 'social conflict' — enmity between masters and men, strikes, civil commotions. The grasping employers, the determined and powerful trade unions (with ample funds for a strike) secure more than their 'fair' share of the fruits of progress; weaker trade unions, unorganised labour, pensioners, workers on fixed salaries, creditors — all these go to the wall. Those who can-

not or will not press for an increased income derive no benefit from progress. 'The strong exploit the weak'.

The benefits of the rich

If, in a period of steady or rising prices, the increased emoluments of the wage and salary earners keep pace with the growth of the national money income, there will still be some people whose incomes fail to keep pace. These will include people whose incomes are fixed by law, contract or custom.

In such a situation a disproportionate share of the fruits of progress will accrue automatically to the ordinary shareholders as 'tertium gaudens'.

Consider the case of a rich man who invested £ 100,000 in a representative list of British equities on 1st January, 1949 to give an income of £ 4,500 per annum. He instructs his stockbroker to receive the gross dividends each year and reinvest them on 1st January of the following year in the same list of ordinary shares. In 1959 his income would be £ 16,627, and on the 1st January, 1960 the capital value of his holding would be £ 477,000.

The increase in income would have been 270 %, three times as great as the increase in the national income. If our rich investor had *borrowed* the £ 100,000 from his bankers and had instructed his stockbroker to receive the dividends and pay thereout bank interest on the loans reckoned at an average of 5 %, he would be receiving a net income in 1959 of £ 5,471, after paying bank interest. The value of his holding on 1st January, 1960 would be £ 296,000, out of which he could, if he wished, repay the £ 100,000 loan and secure an untaxed capital profit of £ 196,000.

In our capitalist system the rich are in the debter class; they own the ordinary shares of the industrial companies. If prices are stable or rising, the rich become richer at the expense of their weaker fellow citizens, and of consumers throughout the world.

The role of money

At constant prices with progress at 1.7 % per annum, the value of the community's income grows in 20 years by 70 % from £ 20,000 million to £ 34,000 million. If (say) £ 6,000 million of money (coin, notes and demand deposits) is needed to purchase £ 20,000 million of goods and services, we may expect that the amount of money needed to buy £ 34,000 million worth will be 70 % greater — it will be £ 10,200 million.

Our assumptions of a steady price level involves the further assumption that the authorities have deliberately increased the amount of money in circulation by 70 % from £ 6,000 million to £ 10,200 million in the course of 20 years.

In 1951/2 7 % of the people of Great Britain owned 90 % of the ordinary shares of public companies.

Monetary policy and social justice

It seems then, that in a progressive economy, a monetary policy that aims at steady prices will be apt to cause an unjust distribution of the fruits of progress.

This leads us to ask two questions:

(1) What is a just distribution of the fruits of progress ?

(2) How can such a just distribution be assured ?

A basis for a solution of our problem may be found in two quotations from Quadragesimo Anno:

(1) 'Then only will the economic and social order be soundly established and attain its ends when it offers *to each and all* those goods which the wealth and resources of nature, technique and social organisation of economic affairs can give'.
All men, all over the world are entitled to a share in the fruits of progress.

(2) 'It is entirely false to ascribe the results of the combined efforts' (of labour and capital) 'to either capital or labour

alone; and it is flagrantly unjust that either should deny the efficiency of the other and claim all the product'.

It seems then that capital and labour are both entitled to receive their share.

Now in a non-progressive economy, there are no benefits of progress to distribute. In such an economy it is meet and just that prices should remain steady — that the effects of monetary policy should be 'neutral'.

St. Thomas Aquinas argued persuasively in favour of the just price. He lived in a non-progressive era. In a non-progressive community, output per head of the population does not change: with steady prices the national money income per head of the population would remain unchanged.

It may be suggested that a monetary policy aimed at an unchanged money income per head would be a just monetary policy in progressive as well as in non-progressive communities.

In a non-progressive community, this policy would result in a steady price level. In a community in which output per head grows steadily at a rate of 1.7 % per annum compound, this policy would result in a steady *fall* in prices at a rate of 1.7 % per annum compound.

In the course of 20 years, the buying power of money would rise 36 %. *All* consumers *all over the world* would benefit from the fruits of progress.

If money wages were steady, real wages would rise 36 %. People on fixed incomes would secure an increase of 36 % in their real incomes. Foreign importers would secure an increase of 36 % in the volume of goods that they could buy for £ 100,000.

With population rising at 1 % per annum, the national money income would rise 25 %, the real national income would rise 70 %. If wage rates were steady, total real wages would increase 70 %; the total real national income would increase 70 %; the rewards of capital would increase 70 % in real terms. And this increase in the rewards of capital would be payment for the additional capital required to finance the new equipment needed for a rising population and for progress.

Selling the goods

The true purpose of production is consumption; it is useless to produce goods that cannot be sold. And the buyer decides what shall be bought. Now as people and nations grow richer, they tend first of all to increase their consumption of the necessities of life — food, drink, clothing and shelter. These are almost entirely agricultural products. Once they have achieved an elegant sufficiency of necessaries, they tend to demand manufactured goods besides buying more and better necessaries.

We have seen that debasement of money tends to enrich the rich and to shut out the poor from the benefits of progress.

If money is progressively debased, the increase in real purchasing power that accompanies progress tends to fall into the hands of the rich and to leave the poor unprovided. This is the explanation of the so called law of the Pareto line. It is due to a progressive debasement of money, extending over 200 years.

The cause of agricultural poverty

The combination of progress and an excessive expansion of money over the past 200 years has resulted in the rich getting richer and the poor remaining poor. As a result, the demand for agricultural goods has stagnated; the demand for manufactures has gone up rapidly. We are now face to face with an extraordinary — and dangerous — development.

The needy agricultural countries see no profit in expanding the production of agricultural goods. They are all bent on industrialisation as the quick road to riches.

There is a grave danger that, despite the fact of progress in agriculture, the world may steadily reduce its output of food and the other products of agriculture — that famine on a large scale will stalk the earth.

It is time to retrace our steps.

The poverty of the needy countries

The problem we have to face is that of the desperate poverty of 1,000 million agriculturists in Asia, Africa and S. America. We have suggested that the main cause of this poverty is simply that the progressive industrial and trading nations, by their unjust monetary policy, have succeeded in reserving to themselves the fruits of progress and denying these fruits to the needy agricultural peoples.

This consideration points to a solution based on justice. We observe that the needy agricultural peoples can rise from their slough of despond in two ways:

(1) They can achieve agricultural progress in their own countries.

(2) They can benefit from the progress of the progressive countries.

A solution of our problem should combine these two methods of attack. Let us consider them in order.

Progress in the needy countries can come in two ways

(a) from the unaided efforts of the needy countries

(b) from the assistance of the rich industrial and trading nations.

(a) Progress, as we have seen, depends upon inventions, raw materials, energy and capital.

The raw materials for progress are owned almost entirely by the advanced countries and are exploited for their benefit.

We now know that the continent of Africa abounds in the raw materials for progress. Vast reserves of oil and iron ore have been discovered in the Sahara. Because there is so little market in Africa for these reserves they are to be sold and shipped to the continent of Europe. South of the Sahara large reserves of copper, bauxite, and other minerals have been discovered and worked — for the benefit of the rich countries.

The world's supplies of energy are owned by the advanced countries and exploited for their benefit.

The average consumption of mechanical energy per head in the needy countries is 112 kilos; for the 20 advanced countries it is 4 tonnes — 36 times as much.

In the 6 years 1952/8, the electrical capacity of 6 advanced countries (U.S.A., U.K., Canada, Germany, France and Italy) increased by 94,000 megawatts, at a cost of around £ 5,000 million. For India the increase was 1,500 megawatts. According to 'India 1959', the rivers of India could be utilised to produce 40,000 megawatts of hydro-electric power. The population of these 6 advanced countries increased in the 6 years from 360 million to 388 million. For India the increase was from 367 million to 397 million — roughly the same.

This investment of £ 5,000 million equalled about one half the annual national income of India. People on the verge of starvation find it most difficult to save: for the rich it is easy.

We can expect little or no benefit to the needy agricultural peoples from their own efforts, They are *too poor to* save the necessary capital.

(b) The rich countries can assist the needy countries towards progress in two ways:
(i) by investment.
(ii) by gifts.

(i) It is unlikely that 'direct' investment by industrial companies in the needy agricultural countries can bring any benefit.

The aim of the industrial companies of the West is to maximise their profits. It is only too probable that the whole of the benefits of progress would be garnered by the investing companies, and the needy peoples would gain no benefit.

Loans by Governments or international bodies such as the World Bank are more likely to be useful for the purpose, if made at a low rate of interest. But they would have to be directed specifically to the increase of agricultural output per worker and per acre. It would be essential that the

benefits (in progress) of these loans should not be entirely recouped by the lenders: some part of the advantage e.g. of some electrical energy should accrue to the needy peoples by way of a fall in the price of electricity.

(ii) There is a strong case for large scale 'gifts' from the advanced countries to the needy countries.

If we consider the 12 most advanced industrial countries (the U.S.A., Canada, the U.K., the six Common Market countries, Norway, Sweden and Switzerland) we find that their combined national money incomes increased in 7 years 1951/8 from $405.3 billion to $609.9 billion. If these countries had operated a 'just' monetary policy the increase would have been from $ 405.3 billion to $ 455.7 billion (in line with their population increases). The average price level in these countries rose 15 %, their prices under a just monetary policy would have *fallen* 14 %.

The industrial nations exported $ 122 billion worth of goods to the primary producing countries in the 6 years 1953/8. The bulk of these exports consisted of chemicals, machinery and other manufactures to the value of $ 96.8 billion.

If these exports had fallen 14 % in price (instead of rising 15 %) they would have been 25 % cheaper. By inflating their money supplies the advanced countries robbed the needy countries in these 6 years of something approaching $ 20 billions.

Since 1951 world prices of food and raw materials have fallen 20 %. The primary producing countries exported $ 83.7 billion worth of food and raw materials to the industrial countries in the 6 years 1953/8. They have received some $ 10 billion too little.

It seems then that in respect of trading since 1951, the advanced countries have robbed the needy countries to the extent of some $ 30 billion. If the advanced countries had operated a just monetary policy, we may estimate that the needy countries would have shared in the fruits of progress of the advanced countries to the extent of $ 30 billion. This robbery of $ 30 billion calls for restitution.

Restitution

What is needed is a new Marchall Plan for the needy countries whereby, with due safeguards, the advanced countries should provide $ 30 billion worth of capital out of taxation in the next 7 years (say) as a 'gift' to the needy countries. The machinery for this transfer is already available. The rich Governments concerned (except Australia and New Zealand) are all represented in the new O.E.C.D. whose task is to give aid to the needy countries.

A firm purpose of amendement

We have insisted that the poverty of the needy countries has been due in large measure to the unjust monetary policies pursued by all countries in the past 200 years.

In order to achieve justice in monetary affairs *all* Governments should in future adopt a just monetary policy, whereby their money supplies would grow no more rapidly than their populations.

The purpose of this reform of monetary policy would be to distribute the benefits of progress throughout the world by trade. It may be observed that whereas the new Marshall Plan of 'gifts' would benefit only those who were affected by it, this second proposal would reach out to all consumers everywhere. Every man, woman and child throughout the world would benefit from progress by way of cheaper prices for the goods that are produced by progressive industries.

HERIBERT GOLSONG

A Critique

LAW AND HUMAN RIGHTS

1. If we follow the news put out by press agencies day by day, and seek to form a clear picture of political developments in contemporary society, we may well conclude that in many countries, those who govern and those who are governed are solely concerned with national or racial interests, or more materialistically still, with technical supremacy or record turnovers.

To judge by the political news that reaches us daily, it would appear that man as such, in his own life, material or, still more, spiritual, represents no sort of intrinsic value whatever — not nowadays — to those who assume the supreme responsibilities of State, here or elsewhere.

Can we really have forgotten, only fifteen years after the ending of the worst war ever waged on earth, that this recent cataclysm was precipitated precisely in the name of a doctrine of nation and race that denied the dignity and value of man ?

Perhaps it is not irrelevant to open a survey dealing with human rights with a reference to M. Eugen Kogon's moving witness to the life of prisoners in concentration camps under the Nazi régime. The first edition of his book, *Der S.S.-Staat* (1), was published in 1946, but it has lost none of its actuality. It reveals to what unimaginable atrocities a régime based on

(1) Kogon, Eugen, *Der SS-Staat,* Frankfurt a. Main, Europaïsche Verlags-Anstalt, 1959, 5. Aufl. XXIV-420 S.

racist and nationalist theories can lead. Naturally, since the publication of M. Kogon's book, other accounts of life and death in the Nazi concentration camps have appeared. And there are in addition, sad to say, certain more recent reports of what is going on in camps in other parts of the world. But what distinguishes M. Kogon's work is the objectivity attained by a man who was himself a victim, in describing a system in which nation and race are absolute, and man is nothing; which consequently repudiates metaphysics, Alone the will of the *Führer* was law, himself the incarnation of nation and race.

Kogon does not dwell on the habits of mind that paved the way for such excesses, he does not delve into the problems entailed, whether historical, philosophical or sociological, but he sorts out the effects of a profound human crisis, of which Pius XII saw the causes in «legal positivism and State absolutism ([2]): that is to say, in conceptions diametrically opposed to the natural law. Indeed, all who committed crimes in the name of the Nazi régime were so-to-say covered by the legal system of their régime, whereby everything was justified that favoured the «supreme ends» of race and nation, and was indeed legalized. Within such a conception man counts for nothing; by and large, we can but observe that symptoms of it still exist in the world today.

2. According to juridical positivism, «law» is no more than «the totality of the laws» which are in effect applied by judges and magistrates at a given time in a given country — whether they are held to be good or bad, useful or harmful ([3]).

Through his personal experience of the Nazi régime, Kogon is able to demonstrate that such positivistic 'law' does not protect man at all from arbitrary action, whether perpetrated by the community or by a neighbour. Therefore something more than positivistic laws are required, laws founded on *true law,* 'the law perceived by the sole light of reason, based on the nature

([2]) Pius XII, Allocation to the members of the *Rota,* November 13th 1949.
([3]) Jeze, *Principes généraux de droit administratif,* Paris, 2nd ed., pp. 8-9.

of things and of man' ([3a]). Thus the effective protection of the individual in contemporary society demands a reconsideration of the principles on which true law reposes.

Die abendländische Rechtsphilosophie (European Philosophy of Law) ([4]), by Professor Alfred Verdross, of the University of Vienna, is a valuable contribution to this theme. Whit his usual clarity the eminent author expounds the great ideas upon which European thought founded its philosophy of law. Stress is laid on the sources of natural law, and in particular its elucidation by St Augustine and St Thomas of Aquinas. But the most interesting part of his work is the analysis of the basic trends underlying positivistic law. Professor Verdross holds that we need to go much further back than Hobbes, Locke, Rousseau or Kant to find the origins of this form of law (p. 80), pointing to Ockham (1290-1349) as the father of what we nowadays consider to be dogmatic posivitism (Kelsen), in opposition to *true law* in Pius XII's meaning of the term.

Verdross not only gives us an historical outline of the philosophy of law in the West, but shows the errors of that philosophy and the baleful effects they have on the development of the human personality; and in doing so he makes explicit his own conception of law. It is a concept of natural law with Aristotle and Thomas of Aquinas as points of departure: he continues their line of thought, insisting that man is not only a 'social being' (Koinouikos) as patristic philosophy proposed ([5]), nor only an 'individual' who, as Spinoza said, 'is entitled to regard as his enemy anyone who attempts to prevent the satisfaction of his demands' ([6]). Verdross declares that man prosesses 'a double nature... for though his social nature makes him turn towards the community, at the same time as an ethical personality he is far above it. But for the law, man with his double

([3a]) Pius XII, *loc.cit.*

([4]) Alfred Verdross, *Abendländische Rechtsphilosophie.* Ihre Grundlagen und Hauptprobleme, Vienna, Springer Verlag, 1958, 270 p.

([5]) Cf. Verdross, *op.cit.*, pp. 56-57.

([6]) *Tractatus politicus* (1678) ch. 2 & 4, from Verdross' quotation *op.cit.*, p. 111.

nature is the given factor, so it has to fulfil a two-fold task to do justice to man in his intrinsic being' ([7]).

So in Verdross's view the object of law is not only to obtain due respect for the individual rights of man inherent in his 'personality', but equally, to create social conditions in which man may live a life compatible with human dignity ([8]). This being so, human liberty is not unlimited, 'but is a condition founded on a natural law that also sets limits to it, within which man can freely develop. There is a corresponding obligation, anchored in the self-same natural law and incumbent on all men, to respect the condition of freedom; just as there is the duty of the community to protect and safeguard it from all attack'. So it is from human nature as such that Verdross deduces his theory of juridical *freedom* as of juridical *responsibility*.

3. In a remarkable book by Révérend Père Louis Lachance, *Le Droit et les Droits de l'Homme* ([9]) (law and human rights), an historical rather than a philosophical work, the author comes to the same conclusions as Verdross, but whereas Professor Verdross holds that alongside the right to individual liberty there are basic social rights, R. P. Lachance concludes that 'individual rights and social rights are organically jointed together the former being *subordinate* to the latter', because 'natural law is, in the finite order, primarily social' ([10]).

That is in a nutshell the thesis which R.P. Lachance defends in so masterly a fashion, that of 'human rights' in the order of 'true law', interpreted in the light of the rules drawn up by St Thomas Aquinas.

The author is interpreting St Thomas when he shows how justice, and therefore law itself, apply par excellence to 'actions and things to do with other people' ([11]). He insists that it is im-

([7]) VERDROSS, *op.cit.*, p. 256.
([8]) VERDROSS, *op.cit.*, p. 256.
([9]) Louis LACHANCE, O. P., *Le Droit et les Droits de l'Homme*, Paris, Presses Universitaires de France, 1959, 238 p.
([10]) LACHANCE, *op.cit.*, p. 99.
([11]) LACHANCE, *op.cit.*, p. 166.

possible to conceive of law in terms of 'one's own good', but only as something *secundum se*, that is, as constituted prior to the intervention of reason among those whose relations it affects... That is what is *just*, it is in fact what law is' ([12]).

So law is no other than a *medium rei* ([13]); or to quote St Thomas, 'a mean between the more and the less... the proportional equality of an external thing to a person equally external' ([14]). In this conception, law is situated not *in* a person, but *between* two persons, 'of whom one is the debtor and the other the creditor or the claimant or the beneficiary or, in modern terms, the subject. The subject of the law is not only the term of the relation of what is owed in strict justice, he is also the *finis cui*' ([15]). So law is not a power relative to the individual's own good.

But in that case what becomes of 'subjective law'? Logically, it can have no specific place in this system; it is an 'imperfect form of law' ([16]), called 'law' only in virtue of an 'extrinsic denomination' ([17]), a term which needs 'to be measured and adjusted by the reality that incarnates the order necessary to the well-being of the community, and which has always been designated as in effect representing the law' ([18]).

Now this human well-being — which law has the specific function of promoting — 'is necessarily organic and historical' ([19]), that is to say, it is inevitably bound to the fluctuations of a political society.

This is not only true of the well-being of a political society such as we find in he State, but, to quote R. P. Lachance, 'after Aristotle, Cicero, St Augustine, St Thomas of Aquinas and Francisco de Vitoria, we may assume that human good, even if limited by the conditions of a given period, *exceeds*, at least

([12]) LACHANCE, *op.cit.*, p. 168.

([13]) LACHANCE, *op.cit.*, p. 168.

([14]) II^a, II^{ae}, q., 58, a. 10; Comm. Eth., n. 934 ed. Pirotta, (from Lachance's quotation, *op.cit.*, p. 168).

([15]) LACHANCE, op.cit., p. 152 & p. 174.

([16]) LACHANCE, *op.cit.*, p. 172.

([17]) LACHANCE, *op.cit.*, pp. 171 & 175.

([18]) LACHANCE, *op.cit.*, p. 175.

([19]) LACHANCE, *op.cit.*, p. 207.

in certain of its elements, that of a *nation* or a *State,* and in several respects it is realized better by a combined effort of nations working together than by the endeavours of one alone...' ([20]).

The fantastic progress of our times in the realms of science and technical achievement surely constitutes the best proof in support of this thesis.

In an international society like our own, where the lot of each one of its parts (or States) depends on what happens to the others, in a society where conflict between such parts may degenerate into a worldwide cataclysm, the application of principles of nineteenth century liberalism can hardly be said to favour that human good which, in fact, the law is. On the contrary, it could only bring about the annihilation of humanity, in the name of that 'absolute liberty' of the State which acknowledges no other limitations than the power of the State. International law conceived in terms of such outdated ideas would have no positive value at all.

After St Thomas, R. P. Lachance reminds us, with the full weight of authority, that true international law could only be effective 'on condition it supported humanity in its search for its essential good' ([21]).

This essential good implies not only material exchanges and all the legal and political action they entail: it requires a rule

4. International law, especially in so far as it concerns the protection of the individual from arbitrary action by national powers, has but very imperfectly come up to this requirement.

However, from time to time new elements appear which to some extent affect the rules of contemporary international law, rendering them more apt to serve the law's true objective, which is the well-being of all men.

The most striking token of a new trend is the 'Convention to safeguard Human Rights and Basic Liberties', which the Member States of the Council of Europe signed on November 4th

([20]) LACHANCE, *op.cit.*, p. 202.
([21]) LACHANCE, *op.cit.*, p. 236.

of law which 'must satisfy that demand for justice which characterizes all mankind' ([22]).
1950 ([23]), ratifying an additional protocol on March 20th 1952 ([24]).

This is not the place for a full description of the Convention. But I should like to draw attention to certain special features of the Convention, for in many respects it has an original and even 'revolutionary' character, compared to the way the protection of the individual is understood in the traditional framework of international law.

What is particularly striking in this Convention is the mechanism of *collective guarantees* based on the one hand on a *European commission of human rights* and on the other on a *European court of human rights,* both composed of members who have complete independence in the exercise of their functions ([25]).

It is not only the contracting States ([26]) that can call upon this system of guarantees by referring to the Commission, or in certain cases the Court, a supposed violation by another contracting State of the rights enumerated in the Convention; even private individuals are entitled to make use of this machinery ([27]).

([22]) Lachance, *op.cit.*, p. 213.

([23]) Belgium, Denmark, France, German Federal Republic, Greece, Eire, Iceland, Italy, Luxembourg, Netherlands, Norway, Sweden, Turquey, United Kingdom; Austria became a member of the European Council in 1956 and signed the Convention on December 13th 1957; the Convention became effective on September 3rd 1953.

([24]) Became effective on May 18th 1954.

([25]) Cf the author's book, *Das Rechtsschutzsystem der europäischen Menschenrechtskonvention,* Karlsruhe, 1958, 115 p. (The system of legal protection under the Convention of Human Rights).

([26]) That is to say, at present, all signatory States except France.

([27]) The basic documents as well as the more important decisions of the Commission and Court are reproduced in: *European Commission of Human Rights / Commission européenne des Droits de l'Homme.* Documents and/et decisions 1955-1956-1957, The Hague 1960. XV-684 p. *Yearbook of the European Convention on Human Rights.* The European Commission and European Court of Human Rights / *Annuaire de la Convention européenne des Droits de l'Homme.* Commission et Cour européennes des Droits de l'Homme 1958-

Here we have something really revolutionary in international law — that by invoking a supposed violation of the rights enumerated in the Convention, a private person can not only denounce a contracting State of a different nationality from his own, but even his own State. In this instance it is not incorrect to speak of interference on the part of collective international organs in the internal affairs of a contracting State, either on the initiative of another State, or on that of a person of any nationality whatever, including that of the State in question.

The States which ratified these dispositions also committed themselves to submit to the final decisions of the European organs, decisions which might include measures to effect reparation, moral or material, on account of damage suffered by the individual ([28]).

Under the terms of the Convention, contracting States recognize as applying *to everyone under their jurisdiction* the rights and liberties defined in the Convention. This in effect eliminates the notion of 'nationality', though still an important one where diplomatic protection is concerned under traditional international law. The Convention foresees no distinction of treatment whether a person belongs to a contracting State or a foreign State or is stateless.

When we remember that it is only thirthy years since an international commission of arbitration ruled that

> 'the State does not commit an international offence in inflicting injury on a stateless person, and consequently no State has the right to intervene or to make complaint on behalf of this stateless person' ([29]),

1959, The Hague, Martinus Nyhoff, 1960, XV-684 p. By January 20th 1961, 3 petitions from State to State and 976 petitions from individual persons had been referred to the Convention. By the same date, two matters had been referred to the Court.

([28]) Cf specially article 50 of the Convention, of which the entire text is reproduced in the year-book mentioned in our last note.

([29]) Cf. General Claims Commission (U.S.A. - Mexico), sentence passed in July 1931 on the case of the Dickson Car Wheel Company (U.S.A.). United Mexican States: *Collection of arbitration sentences,* United Nations, Vol. IV., 1951, p. 678.

we can measure the road covered. And by the same token we perceive the whole range of the new conception manifested in the European Convention of Human Rights.

Indeed it may yet become the 'authentic rule for human society' ([30]), if all who are called to apply its dispositions draw their inspiration from the implications of that 'true law' of which Pius XII and A. Verdross and R. P. Lachance speak, and which Etienne Gilson probably had in mind when he suggested that Europe and Law are one and the same: 'L'Europe, c'est peut-être le droit' ([31]).

([30]) Lachance, *op.cit.*, p. 238.

([31]) Etienne Gilson, *Les métamorphoses de la Cité de Dieu*, p. 221 (Metamorphoses of the City of God).

J. J. M. VAN DER VEN

Events and Trends

THE PHILOSOPHY OF LAW

1. *Introduction*

It is not easy to chronicle developments in the philosophy of law. The limits of such an account are not very precise. In what year should one begin ? A chronicle should deal with current topics, but are those of 1945 still of importance in 1961 ? Nonetheless, the year 1945 seems alone to be justified as a point of departure, for reasons clearly relating to the subject. To go back no further than 1956 would seem purely arbitrary from an objective point of view.

The boundaries between subjects which have already been explored, as for example social ethics (Vol. I, 1), the social teaching of the Church (Vol. I, 2), and the philosophy of law are not immediately evident. One might find the same works discussed under different headings.

As has already been said in the first number of this journal under the heading 'Events and Trends' (1), it is no longer easy nor is it permissible to draw a strict line of demarcation between theology and philosophy.

In the domain of law in particular, account must be taken not only of the encroachment of philosophy on the theology of

(1) Jean LADRIÈRE, in *World Justice*, vol. I, n° 1, p. 83.

the Reformed Churches, but also of the penetration of theology into the Catholic philosophy of law (2).

I have approached the task in the following fashion: I shall confine myself to the past five years, but I shall not hesitate to go further back if this seems justified. I shall avoid referring to works already cited in one of the preceding numbers. Lastly, I shall take leave to consider philosophy in its widest sense and not merely in that of strictly rational philosophy.

2. *The Philosophy, Dogmatics and Sociology of Law*

During the nineteenth century, and at the beginning of the twentieth, the dogmatic positivism of law, completed by the history of law, reached its peak. The interest of philosophers in law was pushed into the background.

Long before the first world war, the sociology of law claimed its place in the science of law, which moved further away from the philosophical problems of law.

Between the two wars, and especially immediately after the second world war, the philosophy of law regained its predominant place without prejudice however to the other branches of the study of law. I am sufficiently optimistic to believe that the science of law, by its concentration on the dogmatics of positive law, by the historical perspective of the evolution of law, by the contribution (still very modest) of sociological investigation into the relations between social life and the prescriptions of law, will now be in a position to work out in greater detail a philosophy of law, into which the findings of the other branches of law will be integrated and not neglected.

At the moment, the most striking example of such an integration of the sociology of law with the philosophy of law, based on metaphysics, is to be found in Fechner's original work (3),

(2) This appeared in 1955, in the first sense in H. H. Walz & H. H. Schrey, *Gerechtigkeit in biblischer Sicht*. Zürich - Frankfurt a/M., Gotthelf Verl., 1955, 166 S. and in the second sense in J. Fuchs, *Lex Naturae, Zur Theologie des Naturrechts*. Düsseldorf, Patmos Verl., 1955, 189 S.

(3) Erich Fechner, *Rechtsphilosophie, Soziologie und Metaphysik des Rechts*. Tübingen, Mohr, 1956, 23×16, XX-303 S.

which we single out as one of the most important publications dealing with our subject in the period which we are going to study here.

Fechner presents us with a philosophy of law, which is at the same time a sociology and a metaphysics of law. On the one hand he does not wish to confine law to the results of sociological investigation, and on the other hand he does not want to imprison it in the 'Radikalität' and 'Universalität' of the metaphysical standpoint, without taking into account the juridical facts with which sociology confronts us. Fechner's work limits itself provisionally to opening up for us new horizons; it does not enable us yet to map the new areas of exploration. But it contains valuable pointers to the renascence in philosophical juridical thought.

3. *Reviews, Congresses, Teaching* ,

Before listing some books, we are glad to note the existence of several periodicals, which deal specially with the philosophy of law.

First of all, the former *Archiv für Rechts und Wirtschaftphilosophie* (4), which had ceased publication for some years, but which has reappeared since 1949 under the name of *Archiv für Rechts und Sozialphilosophie* (5). It is an impressive quarterly review, published for the *Internationale Vereinigung für Rechts und Sozialphilosophie*, and is mainly though not exclusively an expression of German thought and opinion.

The editors are assisted by a group of collaborators of different nationalities, and the review often publishes English and French articles.

Several years later the *Archives de Philosophie du Droit* was roused from its long slumber by a *Nouvelle Série* which in principle ought to appear annually (6). This promise has not

(4) This review was founded in 1907 by J. Kohler and Fr. Berolzheimer.

(5) It is now published by Hermann Luchterhand Verlag, Neuwied (Rh) and is edited by Rudolf Laun and Theodor Viehweg.

(6) *Archives de Philosophie du Droit* has a French editorial board, of

been kept for the first number appeared in 1952, and the fifth in 1960. Dissertations dealing with one single theme occupy an important position in each number.

Thus the last three issues treat of: *Le Rôle de la volonté dans le droit* (1957), *Droit et Histoire* (1959), and *La Théologie chrétienne et le Droit* (1960). One cannot pass over these two periodicals in silence if one wishes to keep abreast of current philosophy of law.

The *Natural Law Forum* is an important review with a clearly defined scope. As the title indicates, the review is 'dedicated to a critical examination of the significance of natural law for our times'. It is professedly open to studies of every character, 'whether favorable or unfavorable to the natural law approach' ([7]).

We must not forget the Roman journal, *Rivista Internazionale di filosofia del diritto* ([8]), the chief editor of which is Giorgio del Vecchio, the Italian Nestor of the philosophy of law. This review, which is now, in 1961, in the 38th year of its existence, constitutes an impressive manifestation of life on the part of the philosophy of law, especially if we consider that it is written almost entirely in Italian and for the most part by Italian contributors.

Since 1953, the philosophy of law in Spain has produced annually a weighty tome of wide scope and breadth of mind: *Annuario de filosofia del derecho* ([9]).

In addition, the philosophy of law is dealt with in numerous law journals, thus revealing a growing interest in this philosophy ([10]).

which Paul Roubier is the Honorary President, and it is published by Receuil Sirey, Paris.

([7]) This review came out in 1956. The editor in chief is A. H. Chroust. (Notre Dame Law School, Notre Dame, Ind.).

([8]) The publisher is the Casa ed. Dott. Giuffrè, Milano.

([9]) This is published by the *Instituto nacional de Estudios juridicos* in Madrid.

([10]) Possibly this development is not given explicit expression, but this could be attributed to the fact that the publication of a philosophical study of law in a legal journal attracts less attention than it would in a special publication on the philosophy of law.

Lastly, we come across from time to time a study of the philosophy of law in philosophical journals ([11]).

Then again we must draw attention to associations and congresses dealing specifically with the philosophy of law. They are too numerous to be listed here, but this multiplicity reveals the awakening interest in the question. It is sufficient to mention that the aforesaid. *Internationale Vereinigung für Rechts- und Sozialphilosophie* organised recently two international congresses ([12]). A section on the philosophy of law (unhappily rather small) had also been incorporated in the work of the international congresses of philosophy ([13]).

It is to be regretted that in the university education of various countries as well as in the different faculties of law in each country, the philosophy of law has not been able to win as important a position. A study which is unhappily incomplete, gives us a comparative summary of the situation in sixteen countries of Europe ([14]).

4. *Books*

As regards the literature of the philosophy of law in various countries, one has a judicious guide in the publications in ARSP.

There are numerous reviews to be found there of course, but the things of special interest are the synoptic surveys dealing each time with one definite country.

We are provided successively with documentation relating

([11]) Certain encyclopedias contain important articles on the philosophy of law. The article *Naturrecht* in the sixth edition (1960) of the *Staatslexicon* der Görres-Gesellschaft, Bd. V, 929-984, written by twelve authors and provided with an important bibliography, should be singled out for special mention.

([12]) This association is established in Wiesbaden, but its directorate is international and it possesses national sections in various countries. The congresses were organised in Saarbrücken (1957) and Vienna (1959).

([13]) In Brussels in 1953 and in Venice in 1958.

([14]) *ARSP*, XLV, 1959, p. 281. The replies from the various countries on which this study is based, are not free from printer's errors.

to Turkey ([15]), Belgium ([16]), Japan ([17]), the Soviet Union ([18]) Spain ([19]), Australia ([20]) and the Netherlands ([21]).

We also find here a study that is less recent but more explicit from the historical standpoint, dealing with Latin America ([22]).

For the German-speaking regions since 1948, there is a classification of the abundant matter ([23]). For the other countries, we take our references from the above-mentioned *Natural Law Forum*, particularly for France ([24]) and for Italy ([25]).

In all these publications, the authors, while not allowing themselves to be governed by the same leading ideas, have drawn a relatively complete picture of the activities concerned with the philosophy of law in the countries of their choice. In every case we find confirmation of my statement that the philosophy of law is arousing a lively interest.

There is now available the first volume of a bibliographical work wich is both extensive and of wide scope; it is edited by

([15]) Yavuz Abadan, *Rechts-u. Sozialphilosophie in der Türkei*, in *ARSP*, 1957, pp. 519-530.

([16]) Jean G. Renauld, *Aspects contemporains de la philosophie du droit en Belgique*, in *ARSP*, 1958, pp. 411-427.

([17]) Junich Aomi, *The Main Currents of Legal Philosophy in Japan*, in *ARSP*, 1958, pp. 557-569. See also Teruo Minemura, *Ouvrages japonais de philosophie du droit*, in *Arch. de Phil. du droit*, 1957, n° 3, pp. 233-242.

([18]) D. A. Kerinow, *Die Wissenschaft der allgemeinen Theorie d. Staates und d. Rechts in der UdSSR*, in *ARSP*, 1959, pp. 275-279. This is too concise.

([19]) Too diffuse is a work by Luis Legaz Y Lacambra, *Die Tendenzen der Rechtsphilosophie in Spanien in des letzten zehn Jahren*, in *ARSP*, 1959, pp. 419-438 and 557-586.

([20]) R. D. Lumb, *Recent Developments in Legal Theory in Australia*, in *ARSP*, 1960, pp. 97-114.

([21]) J. J. M. van der Ven, *Rechtsphilosophie in den Niederlanden heute*, in *ARSP*, 1960.

([22]) J. L. Kunz, *Latein-Amerikanische Rechtsphilosophie im zwanzigsten Jahrhundert*, in *ARSP*, 1951, pp. 226-256.

([23]) Th. Würtenberger, *Zur Geschichte der Rechtsphilosophie und des Naturrechts*, in *ARSP*, 1954, pp. 58-87.

([24]) René Théry, *Ten Years of the Philosophy of Law in France*, in *Natural Law Forum*, 1956, pp. 104-121.

([25]) Guido Fasso, *Natural Law in Italy in the Past Ten Years*, in *Natural Law Forum*, 1956, pp. 122-134.

Arthur Utz (Fribourg) ([26]). It deals with the regions where German, French, English, Spanish and Italian are spoken, and besides treating of the philosophy of law, it deals also with the preliminary principles of the study of society and the social, economic and political order. It does not provide simply the titles of books, it also gives numerous reviews, sometimes very detailed, and summaries in four languages.

Where is this current interest in the philosophy of law leading us ? First of all, let us make a distinction between the historical and the systematic interest. This distinction cannot be a clear cut one because historical studies lead on to systematic problems, and the latter are often in turn opened up again by historical exposition.

We shall endeavour nevertheless to classify the works which we wish to discuss, under one or other of these heads ([27]).

A.- *Contributions to the history of the philosophy of law*

These can be found in general works as well as in special monographs. Following on the interesting works of Hans Welzel ([28]), Erik Wolf ([29]) and C. J. Friedrich ([30]) — works which offer many new points of view as well as surprising formulations, and which appeared a little before the period chosen for this

([26]) Arthur Utz, *Grundsatzfragen des öffentlichen Lebens.* Bibliographie (Darstellung und Kritik). *Recht, Gesellschaft, Wirtschaft, Staat,* Bd. I, 1956-1959, Freiburg i. Br., Herder, 1960.

([27]) I have not been able to achieve a complete classification. I may refer to the voluminous work of Giorgio del Vecchio. See also footnote 56 with reference to some authors whom I have not been able to consider here.

([28]) Hans Welzel, *Naturrecht und materiale Gerechtigkeit.* Göttingen, Vandenhoeck & Ruprecht, 1955, 2. Aufl. (1. Aufl. 1951).

([29]) Erik Wolf, *Das Problem der Naturrechtslehre.* Karlsruhe, Müller, 1959, 2. Aufl., XII-173 S. This work is surprising for its original arrangement: the theories of natural law are not dealt with in chronological order, but are described according to their affinity with nine different conceptions of «nature», and with nine different conceptions of «law». This book is also a mine of bibliography.

([30]) C. J. Friedrich, *Die Philosophie des Rechts in historischer Perspective.* Berlin-Wien, Springer Verlag, 1955, 153 S.

review — the history of the philosophy of law has been enriched first of all by a study by Alfred Verdross ([31]), a Viennese scholar well-known for his work in the domain of law of nations.

The work gives a chronological description of the philosophy of law of antiquity and the Christian era, followed by that of modern times and our contemporary period. In this way he gives us a clear and balanced picture of the history in question.

The author enhances the value of his work still further by the addition of an essay of particularly profound synthesis, in the form of a 'kritische Würdigung der Ergebnisse'. Thanks to this essay, the history of the philosophy of law has been genuinely enriched by a fundamental critique in which the great material problems such as the human being and law, law and morality, natural law, primary and secondary natural law, and the relation between natural and positive law, are treated from a personal standpoint in line with Thomistic ontology.

The collection of dissertations which Michel Villey (Strasbourg) has devoted to the philosophy of law belongs also to the domain of history ([32]). Villey does not aim, like Verdross, at drawing a complete picture of the philosophy of western law, which requires a treatment that is partly organic and partly dialectical ([33]), but prefers to consider a series of separate problems which the philosopher finds himself confronted with by history.

The reader is given a bird's eye view of the history of philosophical thought on law in five succinct chapters ([34]), but will find the most interesting ideas in the 'capita selecta' which follow. These are fourteen chapters grouped together under the title of 'Relations du droit à la philosphie', and then four chapters under the heading 'Histoire et droit'. Here the author treats

([31]) A. Verdross, *Abendländische Rechtsphilosophie*. Wien, Springer Verlag, 1958, X-270 S.

([32]) Michel Villey, *Leçons d'histoire de la philosophie du droit*. Paris, Dalloz, 1957, 442 p.

([33]) See Verdross, *op.cit.*, p. 254.

([34]) These chapters are provided with a bibliography that is extensive but incomplete.

specific problems of the philosophy of law, taking some writer or school as his starting point. For the modern reader the 'lectures critiques' dealing with Kelsen, Dabin, Coing and Fechner ([35]) have a contemporary interest. After discussions on the subject of 'progress' and 'Toynbee', the author studies a philosophic conception of history.

For Villey, 'our culture is history' ([36]). But it must not be deduced from this that Villey wishes merely to revive the historical school of law; rather, these words should be interpreted in a more profound and philosophical sense: Villey believes that history borrows its significance from its relation to 'present action', and surely from its relationship with law and the actual facts of law.

The near future, we hope, will see the completion of some histories of the philosophy of law, which so far are only at the period of the Middle Ages. We are alluding to the first volume of the work of Flückiger ([37]) and Truyol ([38]), authors who have together laid the foundations of a work which might become an authority in the field of the philosophy of law, but the authors are still very far from their declared goal.

This last work has a special interest because it studies the political and juridical wisdom of the ancient East and that of China and India, before coming to that of ancient Greece ([39]).

Finally, for the reader who has a knowledge of Spanish, we may mention a complete history of the philosophy of law, brought out by Luño Peña shortly before 1956 ([40]).

One can supplement these general histories of the philosophy

([35]) On the subject of Fechner's book, *Rechtsphilosophie*, see footnote 3.

([36]) Villey, *op.cit.*, p. 436.

([37]) Felix Flückiger, *Geschichte des Naturrechtes*, I. Bd. *Altertum und Frühmittelalter*, Zollikon-Zürich, Evangelischer Verlag, 1954, 476 S.

([38]) Ant. Truyol y Serra, *Historia de la filosofia der derecho*, I. *De los origenes a la baja Edad-Media*, Madrid, 1954.

([39]) A similar but more condensed study has been brought out by José Corts Grau, *Historia de la filosofia del derecho*, I. *Filosofia antigua y medieval*, Madrid, 1953, 2d ed., a history which has likewise stopped at the first volume.

([40]) Enr. Luño Peña, *Historia de la filosofia del derecho*. Barcelona, Ed. La Hormiga de uro, 1955, 2d ed., in-8, 787 p. In Portuguese, L. Cabral de Moncada, *Filosofia do direito é do estado*, parte histor. Coimbra, 1955.

of law with a certain number of monographs devoted to individual authors or to specific periods (41), and with well-known but less recent works (42); and it will then be clear that the statement that there is a revival of interest in the philosophy of law is by no means rash. It remains for us now to examine the extent of the interest nowadays in the problems of the philosophy of law.

B.- *Studies dealing with the problems of the philosophy of law*

The problems in the philosophy of law which have been uppermost during the period under review, as well as immediately after 1945, can for the most part be classified under the

(41) With no pretensions to completeness, I give the following list of books concerning:
Aristotle. P. Trude, *Der Begriff der Gerechtigkeit in der aristotelischen Rechts- und Staatsphilosophie*. 1955.
End of the Middle Ages (c. 1200-1600). Th. E. Davitt, *The Nature of Law*. St Louis, Herder, 1953, 274 p. In this book, the authors who treat of the essence of law (the norm of law) are grouped according to their voluntarist or intellectualist tendencies.
Thomas Aquinas, *Recht und Gerechtigkeit*, Bd. 18 Deutsche Thomasausgabe, adapted by A. F. Utz. Heidelberg, Kerle, 1953.
Ditto. Jer. Newman, *Foundations of Justice*. Cork, University Press, 1954, 130 p.
Suarez. J. Giers, *Die Gerechtigkeitslehre des jungen Suarez*. Freiburg i. B., Herder, 1958, XVII-258 p.
Spinoza. G. Rigoberto Diaz, *La concepción del derecho y estado en la filosofia di Spinoza*. Santiago di Chile, 1956.
Pufendorf. Hans Welzel, *Die Naturrechtslehre S. Pufendorfs*. Berlin, W. de Gruyter, 1958, in-8, 112 p.
Leibniz. G. Grua, *La Justice humaine selon Leibniz*. Paris, P.U.F., 1956, in-8, XII-415 p.
Kant. Norb. Bobbio, *Diritto e Stato nel pensiero di Emm. Kant*. Torino, 1957.
Ditto. Dino Pasini, *Diritto, società e stato in Kant*. Milano, A. Giuffrè, 1957, in-8, VII-275 p.
Hegel. Ant. Negri, *Stato e Diritto nel giovane Hegel*. Padua, 1958.
Schelling. Alex. Hollerbach, *Der Rechtsgedanke bei Schelling*. Frankfurt M., Klosterman, 1957, 354 p.

(42) See J. Althusius, Bodin, F. J. Stahl, Gierke, R. von Mohl, Berolzheimer, Bierling.

heading, 'The Renascence of Natural Law' ([43]). What is involved in fact is a certain confirmation — using different methods and varying arguments — of a material justice before any formal justice.

Hans Kelsen, the leader of the Viennese school, perseveres however in his vigorous opposition to the idea of natural law. He maintains the hypothesis of a fundamental norm that is conditioned by the validity of a system of positive law.

He has expounded once more his negative conception of natural law in a detailed dissertation ([44]). This occupies the larger half of a compilation which includes works of other writers and even of defenders of natural law (e.g. A. P. d'Entrèves). The booklet has thus an 'ecumenical' character in the field of natural law.

On the other hand it is noteworthy that authors who are in principle adepts in natural law — I am thinking here of Catholic Thomists — do not content themselves with a scholastic or traditional exposition of Thomistic natural law, but rather endeavour to think out this doctrine again and to express it in a new form. While the commentary produced by Utz ([45]) furnished a fine example, the line that is being followed by Professor Albert Auer ([46]) of the University of Salzburg is a brillant confirmation of it. In effect the latter studies the natural law by placing it in relation with present events, so as to avoid the reproach of floating in an abstract void.

It is indisputably a great merit to base all law on existence, and so to oppose resolutely the lamentable separation between

([43]) Harking back to J. Charmont, *La Renaissance du droit naturel.* Paris, Libr. de Jurisprudence ancienne et moderne, 1927, in-8, 222 p., or to S. G. Haines, *The Revival of Natural Law Concepts.* Harvard U.P., 1946, 2nd. ed. (1st ed. 1930), and also to H. Rommen, *Die ewige Wiederkehr des Naturrechts.* München, Kösel Verl., 1947, 2nd. ed., in-8, 261 S. French transl. *Le Droit naturel.* Fribourg, Librairie de l'Université, 1945, 310 p.

([44]) H. Kelsen, e.a., *Le droit naturel.* Annales de Philos. Politique, n° 3, Paris, P.U.F., 229 p.

([45]) See above, note 41.

([46]) Alb. Auer, *Der Mensch hat Recht.* Graz, Styria Verl., 1956, 398 S. There is a surprising review of the book by E. W. Böckenförde in *ARSP, XLIV,* 1958, p. 95.

'Sein' and 'Sollen' promulgated by the devotees of Kantan theories. Law perhaps loses thereby some of its force as a norm, for, being imposed like an emanation of concrete existence, it is not sufficiently presented as resulting from a normative choice of the human being who creates it. Auer is so intensely concerned over the individual that he embodies law in him like an 'Ich', and detaches law from the relations of men to each other. In this way he denies (or at least neglects) the social aspect of the human being, and, without this, law loses all meaning and justification. On the other hand, one sees with satisfactian that the makes all his arguments issue in the diverse concrete and actual problems of law ([47]).

About the same period there appeared a booklet by René Marcic ([48]), another Salzburg scholar, whose thesis is closely linked with that of Auer. He is likewise inclined towards Thomism (though more in line with Heidegger) and is a convinced defender of ontological natural law. He rejects abstraction and looks for justice in concrete reality. Hence his attitude of reserve towards present-day legislation, which is becoming more and more extensive and detailed (abstract rules of law), and his marked preference for giving judges greater freedom (concrete justice). At the same time he demands more room and greater freedom for the human being and for certain collectivities so as to achieve a juridical organisation closely approaching the concrete relations between concrete persons.

Finally, we must mention an Austrian book dealing with natural law; it is a less recent book, but it appeared in its third edition during the period which we are considering in this article. It is the well-known manual of J. Messner, entitled 'Das Naturrecht' ([49]), and it treats not only of the ethics of society, of the state and of economics, but also of very concrete secondary problems.

([47]) For example: the rights of man, capitalism, socialism, workers' participation in management and profits.

([48]) R. Marcic, *Vom Gesetzesstaat zum Richterstaat.* Wien, Springer Verl., 1957, XV-548 S.

([49]) J. Messner, *Das Naturrecht.* Innsbruck, Tyrolia Verl., 1958, 3. Aufl., 1206 S. Although printed in small type this book contains over 1200 p.

It is evident that such an investigation into the relation between natural law and concrete reality, into the problem of the historic character of law in general and likewise into that of natural law gives an important extension to the study of natural law.

Auer (and Messner in a lesser manner) and especially Marcic are opposed to an abstract, generalising and inflexible natural law, yet they do not lose themselves in a historic relativism or in a formal natural law of variable content like Stammler.

Nature and law, both drawing their meaning and significance from concrete existence, give in consequence to natural law a meaning and historical significance which cannot yield to arbitrary forces or any whims of the imagination. Their ontological relation gives them immutable bases ([50]).

As I have already noted, we are also discovering, outside Thomistic thought, a new interest in natural law, although before 1956 this interest expressed itself chiefly in publicity.

In the latter field there arose also a discussion of the problem of the relation between natural law and history. This was treated especially in the valuable book by Leo Strauss which appeared first in English and was then translated into French and German ([51]); it rejects both historicism and rationalism in favour of an ideal natural law which is at the same time influenced by history ([52]).

The growing interest in a pre-positive law, which does not float like an ideal phantasmagoria in supra-terrestrial spheres, but which is solidly rooted in historical reality, is linked with the surprising fact that we have dared to stride over the rigid Kantian line between 'Sein' and 'Sollen', and base the world of law (pre-positive) on the world of reality in se ([53]). Jacques

([50]) See also the succinct but interesting work of José Castan Tobenas, *Evolucion juridica y progreso juridico,* Bilbao, 1956; and Arthur Kaufmann, *Naturrecht und Geschichtlichkeit.* Tübingen, Mohr, 1957, 31 S.

([51]) Leo Strauss, *Natural Right and History.* Chicago, Univ. Pr., 1953, 327 p., § 5. *Droit naturel et histoire.* Paris, Plon, 1954, 388 p., *Naturrecht und Geschichte.* Stuttgart, 1956.

([52]) See Rod. di Stefano, *Il problema del diritto non naturale.* Milano, 1955.

([53]) See on this subject F. Achermann, *Das Verhältnis von Sein und Sollen*

Leclercq goes somewhat too far in this direction when he proclaims that mankind has not yet been able to create an admissible doctrine of natural law, and that it is sociology above all which, as a 'decisive stage in the liberation of the mind', will be able to guide us. ([54]).

To sociology we owe our liberation from the prejudice and facile generalisations which we used to call immutable truths ([55]). This booklet, stimulating despite its one-sidedness, is undoubtedly worth reading.

I hope to find the opportunity to treat this point in detail in a future issue in the light of the currents of thought on the philosophy of law which have revealed themselves in Scandinavia and North America ([56]).

What is the present position in this question of the interdependence of law and ethics ?

In this field also there is an effort to impose Kelsen's arid theory of law.

Virally, while basing himself explicitly on the formal theory of law of Hans Kelsen, pleads warmly in favour of bringing back the doctrine of values into law and the juridical sciences ([57]). In many places the author seems to me too formalist, particularly when he looks for unity and continuity in the phenomena of law, although it is symptomatic that Virally does not hesitate to go beyond Kelsen's schema in order to bring out clearly the important significance of values in the making of law, and that

als ein Grundproblem des Rechts. Winterthur, Keller, 1955, VIII-125 S., and Werner Maihofer, who in his treatise, *Recht und Sein* (Frankfurt/M., Klosterman, 1954, 125 S) made a captivating attempt to combine existentially the phenomenon of law with the doctrine of essence.

([54]) J. Leclercq, *Du droit naturel à la Sociologie*. Paris, Spes, 1960, 2 vol., 160 & 166 p.

([55]) Already in 1946 we find F. W. Jerusalem making a similarly exaggerated and one-sided assertion: 'So ist die Soziologie das Naturrecht unserer Zeit. *Kritik der Rechtswissenschaft*, Frankfurt/M., Knecht-Carolus-Drückerei, 1949, in-8, 559 S., 25 DM.

([56]) We have in mind here such writers as V. Lundstedt, A.Ross and Roscoe Pound.

([57]) Michel Virally, *La pensée juridique*. Paris, Libr. générale de droit et de jurisprudence, 1960, III-225 p.

in consequence he argues fearlessly the absolute necessity for the juridical sciences to be completed by other social sciences.

Ernst von Hippel, who has brought together a number of scattered dissertations under the significant title, 'Mechanisches und moralisches Rechtsdenken' ([58]) is a more resolute opponent of Kelsen. He considers the latter to be the spokesman of mechanistic juridical thought — which he himself rejects with conviction ([59]) — and defends the close dependence on each other of law and ethics, approaching the question each time from a different standpoint. This theme recurs in the second part of his collection of essays, where he details a certain number of concrete problems, more particularly those concerning the organisation of community life ([60]).

To round off our account, we may mention another philosophy of law, written in Dutch and therefore inaccessible to many readers. Again we find the relation between law and morals as the central theme. Langemeyer ([61]) devotes the first half of his book to a historical conspectus, and the second half to an exposition of his own 'system'.

In this, law is situated explicitly in the field of ethics, and so finds itself involved in questions of the appreciation of good and evil, without thereby losing completely its individual character. This thesis is especially interesting because Langemeyer here departs deliberately from Kantian philosophy (to which he is devoted) and raises law once more to the higher plane of ethics where he wishes to place it because it has moral values that are of service, although he does not make the mistake of thinking that law is thereby protected from the attacks of spiritual barbarism ([62]).

([58]) Ernst von Hippel, *Mechanisches und Moralisches Rechtsdenken*. Meisenheim am Glan, A. Hain Verl., 1959, 488 p.

([59]) See especially dissertations 1, 5 and 16 in the first half of his book.

([60]) We should also mention another collection of studies (less recent) which are likewise of juridico-philosophical inspiration for the most part: Hermann Jahrreiss, *Mensch und Staat*. Köln, C. Heymans Verl., 1957, 325 p.

([61]) G. E. Langemeier, *Inleiding tot de Studie van de Wijsbegeerte des Rechts*. Zwolle, Tjeenk Willink, 1956, 314 p.

([62]) Such protection is unattainable. Man so easily rejects the moral code which he himself had chosen.

5. *Summary*

Following on our introduction (1), we outlined the present position of the philosophy of law with regard to the dogmatics and sociology of law (2); we expressed the hope that from the sociology of law in particular there would come fruitful impulses towards the concretisation of philosophical thought on law.

We then established the fact that there exists a lively interest in the philosophy of law (3) and we drew attention to the books published on this topic (4).

We drew a distinction between studies relating to the history of the philosophy of law (A) and those dealing with its systematic problems (B).

From the latter it appears that the aspiration for a material justice is of prime importance and demands a study for each of its many aspects, such as the complex problems of law and reality in se, law and history, law and morals.

Only a review of many a review to come will be in a position to assess, at the opportune moment, whether the fundamental problems of the philosophy of law have been taken into effective consideration.

(Translated by John Joyce S. J.)

Book Reviews

Evangelisches Soziallexikon, Herausgegeben von Friedrich Karrenberg, Stuttgart, Kreuz-Verlag, 3. unveränderte Auflage 1958, 1176 col., 627 p.

The editor, Dr. J. Karrenberg, defines the double purpose of this encyclopaedia as follows:

(a) as announced in the introduction, to inform the reader by examining in particular the historical aspects of the problems dealt with.

(b) to enunciate and resolve social problems from the evangelical point of view. In his introduction, the editor writes that, as is traditional among Protestants, great differences of opinion had been anticipated, but that he was surprised to note the very wide meetings of minds achieved.

Although it is contained in one volume, this encyclopaedia is very rich and comprehensive. This comes from its high degree of concision and from the use of technical devices such as small print and diagrams.

The work is also a typical example of German thoroughness and attention to detail.

It further contains interesting innovations, such as the 'Stichwortregister' in which are found key-words for subjects not dealt with under separate headings, but nevertheless mentioned in several places in the encyclopaedia. Among these we may note: *Amsterdam, Evanston, Oxford, Enzykliken, Human Relations,* etc.

This method is extremely useful for terms like 'Communism', which is dealt with under many headings and all references to which are immediately available in the index.

Another rare innovation in an encyclopaedia is the use of appendices; for instance, in relation with the article 'Peace and War' may be found extracts from official documents of the Evangelical Church on this question.

Some people will perhaps feel that the article on birth control is over-cautious. But it may not be forgotten that the Protestant theologian has much greater autonomy than the Catholic, that he

has less reference points at his disposal and that he tends to shy away from any categorical position on this matter.

In conclusion, might we voice a wish? In the article 'Religionssoziologie', the achievements of German religious sociology are mentioned, and rightly so, since this sociology is still ignored or contested in certain circles. Would it not have been an excellent and desirable idea to deal also with modern religious sociology, which is directed to positive achievements?

L. Lauwers.

European Yearbook. Annuaire Européen. Pub. under the auspices of the Council of Europe. Pub. sous les auspices du Conseil de L'Europe. 's Gravenhage, M. Nijhoff. 1959. n° 6. XIII-530 p.

This Yearbook is being published under the responsibility of a Publishing Committee, semi-official and non-political agency, which foregoes to express any opinion on whatever aspect in international matters. Its only object is to encourage a systematic study of European organizations and their activities, which has been attained in a remarkable way.

The present volume VI deals with the events of 1958.

The most important aspects of the European Integration are treated in the following articles: L'Evolution des Communautés Européennes (W. Hallstein); Europe and the Economic Development of Africa (A. Gaitskell); La Convention Européenne pour le Règlement Pacifique des Différends (J. P. A. Francois), L'Evolution de l'Assemblée de l'U.E.O. (F. Humblet); N.A.T.O. Parliamentarians Conference (J. J. Fens); Vers une Fonction Publique Européenne (A. Daussin) and Multilateral Cultural Co-operation in Europe (R. Crivon).

The documentary section contains the documents of the various organizations (activities and outstanding events, lists of principal officials, all publications, etc.). The bibliographic section analyses an interesting choice among the many works on European questions, which were published during the year. Attached to it is a list of articles from periodicals classified according to subjects.

Since European Integration is characterized by its growing complexity we are specially grateful to the editors for their excellent work of information.

A. Verdoodt.

Repertorium van de Sociale Wetenschappen: II. *Rechtswetenschap.* Redaktie Drs. H. Meyers, Amsterdam, Elsevier, 1958, 655 p., *f.* 22.50.

In this work, sixteen Dutch writers give a systematic survey of the Science of Law.

This is the second of four volumes of a series containing works on politics, law, modern history and economics.

In comparison with the first part, which discusses world political doctrines and institutions and concerns also Belgian politics, discussed by Professor Peeters, this second part is exclusively devoted to the Science of Law in the Netherlands. This book is of undeniable value for those who are interested in both public and private law in Holland, but particularly interesting are the chapters concerning philosophy of law and international law.

In his account of the philosophy of law and international law, Dr. A. N. Knotting warns us against verbalism, which threatens to dwarf the Science of Law by suggesting a return to phenomenological methods.

The chapter of the international organisations seems to be the least successful. Apart from what is said about U.N.O., the summaries are incomplete and sometimes inexact. For example, nothing is said of the Council of Europe's activities, or of the E.C.S.C. in the social field, nothing at all is said of the reforms executed in the last few years concerning N.A.T.O. and the different opinions as to the creation of an Atlantic alliance. Mr. Mayer was not succeeded as the President of the High Authorithy of the Coal and Steel Community by Professor A. Coppé but by Mr. Finet. Since the end of 1957 Marchal has been replaced by Mr. Benvenutti as the Secretary-General of the Council of Europe.

In the conclusion one can say that this collection corresponds to the necessity of giving in a practical form a scientific description of the more and more complicated phenomena of the social life.

M. Le Bon.

LERNER, Max, *America as a civilization, Life and Thought in the United States today,* New York, Simon and Schuster, 1957, XIII-1.037 p.

During the years that followed the war, the civilization of America, its character, its history, its economy as well as its way of life,

etc., have been the subject of numerous writings and publications; however, no valid synthesis of American civilization in itself had thus far been built up.

This gap has finally been filled in a masterful manner through the book of Professor Max Lerner of the Brandeis University. The drafting of this book, according to the author himself, required no less than 10 years of work. This proves that it is the result of minute research, serious reflexion, patient observation as well as careful analysis. We may go as far as asserting, without fear of exaggeration, that this book constitutes an invaluable acquisition for the cultural patrimony of humanity and a precious legacy for future generations. The abundance of knowledge contained in this book, the profuseness of language and style, the selection of ideas, and the manner in which they are developed, bestow a tremendous intellectual pleasure upon the reader of this book. The subtlety which governs the analysis of certain typical aspects of an American's life — his way of thinking and being — and the richness and charm of the pictures enhancing practically every chapter of the book, betray the deep and winning personality of its author who ranks with the top contemporary American elite. To that we must add the honesty of the author which may be found on nearly every page of his remarkable book and which also manifests itself, among others, in the study of less pleasant aspects of American civilization and in his consciousness of the imperfections and faults of his own people and his own culture.

All aspects of American civilization are tackled without any of them having ostensively been omitted: the past of America, its people and the place it takes in history, its technical achievements and their results, its economy and its business, its political regime, its social structure and the classes of which it is composed, its beliefs and opinions, its artistic and cultural manifestations, and finally America considered as a world power.

However, as a disciplined man of science, the writer also gives a definition of what is understood by the concept of civilization and 'American Civilization' in particular. An American, who tries to answer this question, can and actually must be asked to remain utterly honest and to stay at a certain emotional distance from his subject. Max Lerner has succeeded splendidly. Is there such a thing as American civilization ? The main theories on the meaning and interpretation of history give divergent answers to this question. According to Spengler and Toynbee, the American civilization is only

a 'by-product' of one of several other civilizations. It would also be interesting to find out whether American culture is perhaps a fragment of a vaster manifestation whose creative nucleus could be sought outside of America ? Arguments of weight, however, plead in favor of the thesis according to which America has its own civilization. This in particular was the opinion of André Siegfried who went as far as claiming that the American civilization was of a far superior quality to that of the West (Occident) in that it was built on the most dynamic elements of modern occidental civilization.

It is clearly evident that the author did not intent to make a retrospective study of American civilization nor a prophecy on its alleged future decline. His book rather endeavors to paint an outline of the structures and the deep significance of American civilization by means of a sober but subtle argumentation, and to show the place it occupies in the present world — its only rival being Soviet Russia.

What destiny does the future hold in store for American civilization ? This seems to depend largely on America in its status as a super-power. Towards the middle of the twentieth century, America has become conscious of the fact that it is one of the two most important forces in the world. The result was that the doctrine of national interest had to be reviewed and that the fight for the domination of the world as well as the fight for the maintenance of the world peace had to be taken into account. In our bi-polar world whose reality is more intricate than we normally wish to admit, we could ask ourselves the following question: what course has American civilization taken ? It is not easy to answer this question, according to Professor Max Lerner. It is a fact that the American believes that he has to fulfil a mission and as a rule this messianic character of American tradition is not taken seriously enough. One thing is certain — America's contribution to the history of universal civilization is positive and enriching.

Is American civilization doomed ? This is a frightening question. Professor Max Lerner believes that it is possible. However, according to him, this could only happen if science lost control over the destructive forces or if pathological phenomena were to take a course such as to lead the whole world to its destruction.

The cold reality is described in such highly moving terms in the last pages of the book that the reader will not fail to be impressed by them. All the time, we find the spectre of the world power of Soviet Russia which threatens American civilization. If this ended

up in a third world war, it would mean suicide of a large part of the human race. If a world disaster could be avoided, the question could be raised as to whether one of the two forces will collapse as a result of internal undermining and thus finally leave victory to the other. In this case, the author believes that America would stand serious chance of carrying off the victory. In fact, America has been able to set up liberal institutions and in this great democratic country there is no fight for the succession to power. For the two civilizations, i.e. the American and the Soviet-Russian, the alternative is not 'co-existence', but rivality and emulation. In this competition as well, America would be at an advantage, for it has managed to give the world an example of a political and social system which guarantees the great masses of the population a better and more independent life.

The future of America in the world here again depends definitely on the quality and vitality of its civilization. What we may already say with certainty is that under the present conditions, which are characterized by the importance of a powerful economy and an impressive military force, a nation must dispose of enormous creative qualities and a profound and lasting desire to set up a rich cultural patrimony. It is probable that from a military and a technical viewpoint, America will for a long time to come remain the first world power in spite of its hesitative and clumsy attitude in world affairs.

To conclude, Professor Max Lerner is of the opinion that the most dangerous enemy of a civilization comes from within — his name is not 'subversion' or 'revolution', but it is 'ageing' and 'rigidity'. There is no doubt but that American civilization has a hidden energy sufficient to assert itself again in an unexpected way and at unexpected moments.

V. A. Werck.

André, General P. J., *Civilisation méditerranéenne et pensée française*. Paris, La Colombe, 1959, 207 p., 800 FF.

In Paris in September 1957 at the fifth congress of the 'Accademia del Mediterraneo di Roma' it was suggested that a scientific study be made of the relations between East and West from the moment of their contact with one another.

This important mission was confided, quite naturally, to General

P. J. André, who reveals the results of his study in his book: *Mediterranean Civilisation and French thought.*

In constructing his thesis the author bases himself on certain always-valid principles (selected by the geographical and political milieux), and uses as material the historical facts. He attempts to explain how the Mediterranean civilisation was formed and how 'French thought' came into being. The latter, in his opinion, could give valuable help in the work of creating a spiritual synthesis which would reunite the entire world and strengthen unity and peace among men.

To prove his theory the author frequently has recourse to the authority of historians and renowned philosophers, but it cannot be denied that the length of the numerous extracts which he uses is somewhat detrimental to the rhythm and unity of the book. Nevertheless his power of persuasion is undeniable, and the entire work proves the clear vision of its author, and his remarkable knowledge of the literature on the subject.

In an admirable way the author demonstrates formally that western civilisation, and in particular 'French thought', is far from being decadent, has not lost its brilliance, and still possesses the immense creative powers which the world needs and which can be of appreciable service to all humanity.

He begins by describing how the civilisations which formerly existed around the Mediterranean influenced one another. The sea, far from being an obstacle, facilitated contact between peoples and civilisations. He shows how, little by little, the concepts on which Mediterranean civilisation is established are crystallised and are affirmed in Christianity. The important rôle of the Crusades in this development is justly emphasised.

From the moment that the Mediterranean Sea was first joined to the Oceans western civilisation has borrowed this passage to drive to the conquest of the seas, and its influence has been felt in Asia and later in Africa. Obviously, this expansion had inestimable consequences. In 1887, when the Suez canal was opened to navigation the world-scale importance of the Mediterranean Sea was confirmed: it became the passage-way of world traffic. The ever-growing rivalry of East and West has made excessively complicated the question of the Mediterranean Sea.

Certainly, one of the most impelling chapters is that in which the author describes the birth, development and reign of 'French thought'. Sad to say there are also distressing aspects: western civ-

ilisation has become Atheist, and to-day the accent is on individual and economic interests, which are, of course, primarily material. This does not, however, spell the absence or the rejection of all spiritual activity.

Occidental civilisation is assuredly menaced, and the question may be asked if this results from the fact that it has lost its 'sense of the human'. The author thinks that Christianity would have been able to cement the unity of the races. But western civilisation, originally Christian, seems to have forgotten and denied its spiritual foundation. The State has been laicised: so have the political and social questions. True world-wide solidarity is possible only on condition that there be among men a 'common soul', ultimately super-national in character, yet taking into account the existing individual and social groups.

V. A. Werck

Van der Gucht, R., *Les Socialistes et la Religion*. Collection 'Etudes sociales'. Bruxelles, La Pensée Catholique, Paris, Office Général du Livre, 1959, 105 pages.

Let us make clear that only Belgian socialism is here dealt with. And yet, what a variety of attitudes to religion ! Furthermore, individual positions sometimes change in the course of the life of the same militant socialist, as the first chapter shows in the case of Vandervelde, who ended by not being sure that socialism was opposed to the Catholic religion.

This ambiguous attitude still exists among the intellectual socialists of today whose positions on the matter are described in the second chapter. There is, however, a small nucleus of theorists whose socialism might become acceptable for a Catholic, with certain adjustments specified in pages 54 to 73.

The third chapter gives an account of the passages concerning religion which have appeared in about sixty recent issues of 'L'Action' and in the first hundred numbers of 'La Gauche', two very different socialist weeklies. If the first allows it to be supposed that the party admits those who have not broken all links with religion in the lively hope that they will rapidly become good freethinkers, the second is much more subtle and very concerned to understand the position of the Church.

The author concludes: 'It is for socialism to define clearly the

path it wishes to take. But it is perhaps not irrelevant to remind Christians that anti-religious feelings have, in many cases been only the exaggerated and inadmissible expression of a not unjustified anti-clericalism. The reconciliation of socialism and catholicism cannot be the outcome of unilateral efforts'.

A. Verdoodt

SIMMAT, William E., *Prostitution und Offentlichkeit,* Soziologische Betrachtungen zur Affäre Nitribitt. Schmiden bei Stuttgart, Franz Decker Verlag Nachfolger, 1959, in-8, 169 p., 9.80 DM.

W. E. Simmat has written this book on the murder in Francfort, on 1 November 1957, of Rosemarie Nitribitt, a prostitute who, although aged only 24, was well known in that city, and on the publicity given to this case in the press, novels, cinema, etc.

Although the author gives exhaustive information on various details of the affair — which are of no particular interest to the public of this Review — the main purpose of his work is nevertheless an up-to-date critique of prostitution from the sociological, moral and psychological angles.

His thesis may be roughly summoned up as follows: 'As regards the causes of prostitution, until the beginning of the 20th century, psycho-biological theories held the floor, but these theories are inadequate for a complete exploration of the phenomenon. On the other hand, a theory exclusively based on sociological facts is also insufficient, although fairly close to the truth'. The author then quotes Arnold Hauser in affirming that psychology is a sociology which has not been thought through to the end.

Without neglecting the moral responsibility of the individual, he comes back to Sigmund Freud's thesis according to which the character and the psychical future of the individual (and the consequences too, indirectly) are largely determined in the first childhood years when family relationships play a dominant rôle.

And again: even if allowance is made for individual causes and unfavourable family circumstances which may lead to prostitution, it is a fact that prostitution — at least under the forms which it assumes in the West — is a phenomenon proper to bourgeois society (bourgeois society in a neutral and not in a negative sense).

This analysis, which also includes a brief historical survey and

vast reference matter on literary sources, seems to be fairly exact without giving proof of any great originality. This is to some extent compensated by its relevance to present problems and by the frank manner of its exposition.

M. Le Bon

CHEN, Theodore H. E., *Thought Reform of the Chinese Intellectuals*. New York, Oxford University Press, 1960, 22×14, 246 p., index, U.S. $ 5.00.

MACFARQUHAR, Roderick, *The Hundred Flowers*. Atlantic Books. London, Stevens & Sons, 1960, 24×16, 324 p., index, £ 2·2.

Every person visiting China should read these two books before setting off for Peking. After devoting a few pages to the years preceding 1949, Dr. Chen studies the policy concerning the intellectuals that the Chinese Communists followed from the time they came into power until January 1958. Although the Chinese expression *'chih-shih fen-tzu'*, meaning 'intellectuals' is general and applies to any educated person, in his book Dr. Chen shows special interest in scholars, teachers, writers, artists, and other members of the liberal professions. Mao Tse-tung believes that reform of thought is a weapon of primary importance which will purify the minds of the whole population from the middle class ideas, and by replacing them with a socialist ideology, will prepare the communist of the future. Chinese of every class are subject to this reform, but it is certainly the intellectuals who, because of their influence on the rest of the nation and their major importance in the reconstruction of the country, are, more than anyone else, placed under this re-education scheme. Basing himself on communist tests, from which he quotes the most illuminating passages, Dr. Chen retraces the history of this reformation. Since the episode known by the name of 'The Hundred Flowers' is certainly the first of this period, the author writes here at great lenght, devoting about a hundred pages to it.

Owing to his importance, however, this question should be studied separately. Mr. MacFarquar has performed this task. In addition to an analysis of the situation, his book offers its reader a rich choice of quotations in which eminent men, often known and persecuted by the Government, because of their leaning towards the left (left-wing tendencies), sometimes even communists themselves, severely

criticise the party, its members, its methods and its policy. Thus we hear in succession the complaints of members of the Government, journalists, graduates, doctors, students, writers, artists, business men, civil servants, members of democratic parties, various religions, and the common people, workmen and peasants. For five weeks — May and the beginning of June 1957 — the attacks came from all sides, becoming more and more violent. Suddenly on June 8th, the Party came out of its apparent apathy and the 'anti-right-wing' campaign, which the author describes to us began. In a very interesting epilogue Mr. G. F. Hudson undertakes the task of placing the 'Hundred Flowers' episode in the general policy of the Communist block, and especially of the Soviet Union, after the death of Stalin.

Yes, every traveller should read one of these books before starting out for Peking, and he should remember that a few weeks before launching their very precise and severe criticisms, the right-wing spoke and wrote only in order to praise their Party and its work with enthusiasm.

H. Jomin

Fagley, Richard M., *The Population Explosion and Christian Responsibility*. London, Oxford University Press, 1960, 260 p., 28 sh.

The first one-third of this book by Dr. Fagley, a prominent Evangelical member of the World Council of Churches, is a brilliant review of what is meant by the 'population explosion' and its implications for the under-privileged countries of the world. Immense research, balanced judgment and a skill for embodying the results of research in a comprehensive readable whole to build up a clear picture made all the more impression on me because I had essayed the same myself and knew from first-hand experience the welter of material he must have ploughed through. To treat of *Population and Parenthood, The Population Explosion, Its Causes and Consequences, Population and Migration, Food and Population* in 81 pages left me rather breathless... with admiration, but also with misgiving. This misgiving, alas, was justified, for the second two-thirds of the book, though it contained very much information, shrewd judgment and high spiritual ideas and a real attempt to cope with contemporary problems in a Christian setting was unconvincing, often diffuse and irrelevant and ultimately inconclusive. Dr. Fagley knew what, in his opinion, should happen, but he was far less clear about what should be done.

For, far from facing up to Christian responsibility in a positive way, Dr. Fagley was guilty of falling into the old Malthusian errors of exaggerating the extent and urgency of the problems of food and population, painting them in their darkest colours, playing down the possibilities of agricultural and technological progress and relying heavily on responsible parenthood, which for him is almost synonymous with birth control.

Most experts (see for example the Symposium on Food and Population at the British Association Meeting on Sept. 5th. 1960) realise the limitations of even a world-wide contraceptive campaign and are coming to the view that it is up to science to find the positive way out of the problems of under-nourishment and regional overpopulation which beset the world in the most prosperous century the world has ever seen.

For the central problem of our time, with all due respect to Mr. Aldous Huxley, is not overpopulation but underdevelopment and this is prevalent in areas which are sparsely populated but with huge natural resources and in normally populated areas, as well as in those areas which are subject to population pressures. No amount of birth control can prevent the people who are already living in want from being born. They need food not contraceptives, as a delegate to Unesco from one of the under-developed countries recently pointed out.

I found more hope in the recent article in *World Justice* by Dr. Sen and in Dr. Colin Clark's article in the first issue of this periodical than in the whole of Dr. Fagley's book.

Although so sincerely and honestly written and in spite of the great scholarship and learning obvious on every page, it was precisely this lack of the Christian virtue of hope that disappointed me. It was as if some traveller on the Jericho road, instead of being keen to bind up the Samaritan's wounds, had been at pains to suggest to the wounded man that this was a very bad road for travellers and should be avoided. One still recoils from the idea that the best way to fulfil the Christian injunction to help your neighbour is by preventing him from existing.

Yet the insistence on responsible parenthood could be a very good thing. No one, least of all Catholics, believe in 'an ungoverned spate of unwanted births', but this should surely be aimed at by means which are not alien to very many of the people in the underdeveloped countries of the world, and in spite of Dr. Fagley's arguments, to many sincere Christians, as well as to the 500 million of the largest Christian body. On the whole, Dr. Fagley's treatment

of other views other than his own is objective and understanding and without rancour. It is, therefore, all the more regrettable that he should call for a campaign among non-Catholics to offset what he regards as the undue influence of Catholics in international agencies against a policy of contraceptive birth control.

A. Mc. Cormack.

SCHIEDER, Theodor, *Staat und Gesellschaft im Wandel unserer Zeit.* Munchen, Oldenbourg Verlag, 1958, in-8, 207 p., 18.50 DM.

This important work consists of seven essays, which may be taken and examined separately (they are, moreover, unequal in value and scope) but which all deal with one of the basic problems of the present-day world — the relations between the State and society.

This complex problem may be looked at from many angles, but Theodor Schieder, who is professor of contemporary history at Cologne University, writes, very pertinently, that the task of historical science is to look for the final meaning of these relations.

The volume shows once again that interest in historical analysis follows different lines today from pre-1914. Historical writing has come closer to sociology. At present, the search is for factual material throwing light on society and the way in which it has developed. History is no longer so much an account of what has happened in the past; in the light of experience drawn from the past, the attempt is made to obtain a clearer vision of the problems confronting us today. This being so, our time is no longer to be looked at in the context of the continuity of the past; it has its own characteristic features and problems.

The author himself recognizes that he has crossed the frontiers of historical method and that sociology has contributed to his analysis. A bridge has thus been built between history and the social sciences. This is a general trend which may be traced not only in political, but also in general history.

It is of the greatest importance that we should aim at a renewal of the historical conscience. However, in order better to explore the road which we have trodden in the last century and a half, Professor Schieder calls upon Burckhardt, who saw in the history of humanity 'a counter-weight to the headlong movement of our times' and as a means of reflection in the storms of the revolutionary period. It was important to protect human beings against a still unknown future. Burckhardt's thesis, according to which modern

times are to be regarded as a period of permanent revolution has been proved correct, and the revolution in question has known no respite. It draws into its orbit the coloured races, the peoples without history and those whose traditions are different from western traditions. The world has become one single great theatre, one field of force, one economic territory, one nexus of extremely varied societies. Contemporary man is beginning to be conscious of his extraordinary situation. In such an intellectual climate the question is inescapable: how can the position of history be renewed ? History is not prepared for this task; it is still thinking in the traditional national and political categories. But, fundamentally, the idea of the development of humanity has not been lost. The postulate of an image of humanity as a whole is taking from, and a renewal of our historical thought is imperative. This is what Professor Schieder means by 'Offene Geschichte' (Open history). The term signifies the abolition of barriers, the admission that history is multi-dimensional. He who wishes to know the history of the world as the history of Humanity must recognise Humanity as an active subject which, from the origin to the final consummation, works out its destiny in innumerable forms of States, peoples and cultures. Karl Jaspers is of the opinion that Humanity has a single history and a single end and that, this being so, it should follow a single path. There is a further aspect to this planetary character of universal history: all human groupings are gathered together in a single field of related forces. This means progress on the plane of community policy; the idea of equality has become determinant.

The State is developing more and more into an instrument of community policy. The fact that the world has become a single political field has transformed the very essence of political action. Salvation can no longer be found in isolationism, nor even in measures on the regional scale.

The political unity of the world must be grounded in the spiritual order: in the idea of one world, one legal order and the creation of one image of Man. The varying religious convictions and the traditional culture of the peoples can rally to this idea. All this points to the fact that we have today reached a decisive stage for Humanity. The idea of a single world order cannot be allowed to go by default.

The interest of Professor Schieder's book derives, in particular, from the visionary manner in which he describes the problems of our times and suggests solutions for them. The essays contain a

remarkable analysis of the problem of the revolution which was unleashed in 1789 and has never ceased since. The work is written in excellent scientific language and abounds in subjects for reflection and study.

V. A. Werck.

DELMAS, Claude, *L'O.T.A.N.* (Organisation du Traité de l'Atlantique-Nord). Collection «Que sais-je ?». Paris, Presses Universitaires de France, 1960, 127 p., 2,20 N.FF.

Only very few researches were devoted up to now to the Atlantic Alliance. But recently several books have appeared on the subject. Is it, perhaps, a sign that there is a problem here ?

The work which is studied here recalls, to begin with, the historical circumstances in which N.A.T.O. was created: 'It is perhaps more an illegitimate and bastard child of the communists, than a child born of our own will...' (P. H. Spaak). According to the author, without any doubt the U.R.S.S. has the greatest responsibility.

He continues by studying the interior evolution of the organisation since 1949, its structure and its functions. Although it is above all, a military coalition, some tend to transform N.A.T.O. into something else: an economic, political, in truth, a cultural organisation.

Finally he analyses the problems which faced it, ten years after its birth: the end of America's nuclear monopoly, Europe's revival and above all the importance of the western civilisation which will only assert itself in the eyes of the Afro-Asiatics if the West ceases to identify with itself 'the principles and the policy that certain of them have taken since the start of the colonial division of the world' (p. 121).

To propose N.A.T.O. as a means of help to the under-developed countries seems to us, however, as being bound to appear suspect in the eyes of the beneficiaries. The organisation of research for bringing about harmonious world disarmament seems to be little suited to a military coalition. Finally the author passes over this problem of civilisation in silence. Must one defend oneself primarily with arms, and subsequently try to find an ideological justification ? Or will we have first to set up an objective and disinterested ideology who will make the decision for the employment or rejection of certain means, including weapons.

A. Verdoodt

COLLIARD, Claude-Albert, *Institutions Internationales*. Paris, Dalloz, 1956, 526 p.

The Dalloz textbooks, of which this one is typical, forms a collection of elementary books well known to French students.

The author, who is the dean of the faculty of law of Grenoble, after an introduction meant to characterize his studies, which are more historical than juridical, of the international institutions, retraces the general evolution of European relations since the Middle Ages to give place next to problems outside Europe.

The first part describes international society: states and the grouping of states, members other than those of the collective states, the international treaty, and other sources of international law, diplomatic agents and consuls and the protection of the individual.

It is only the second part which is concerned with the attempts at international organisation: Universal institutions with extensive powers, organisations of a continental or regional character, specialized organisations and the situation of international civil servants.

A methodical bibliography — above all French — a table of abbreviations of the names of international institutions and an alphabetical index conclude the work.

Its lucid clear quality allows it to be recommended to everyone desirous of learning about the essentials of these institutions.

A. Verdoodt.

IMBODEN, Max, *Montesquieu und die Lehre der Gewaltentrennung*. Berlin, Walter De Gruyter, 1959, 25 p.

This is the title of a lecture given on 27 May 1959 at the 'Berliner Juristische Gesellschaft'. Like many of his predecessors who have thought about the basic problem of political doctrine, Professor Imboden of Basle University here gives us his views on the values behind concrete constitutional norms.

The problem belongs to the philosophy of law: however, since the publication of the ideas and conceptions of Max Weber on the State and society, sociology has also taken it up.

The author begins by a review of the opinions on the matter of the leading German thinkers of the nineteenth and twentieth centuries. Hegel rightly considered that 'a constitution is not something which on settles without more ado, but finally it is the result of

several centuries of work'. The same idea is found among the constitution makers of the New World, for whom the constitution is 'the greatest of all reflexions on human nature'. Both Hegel and the American legislators referred to Montesquieu, one of the last classic thinkers on matters appertaining to the State. The doctrine of the three powers formulated and expressed a dogma which was later to be a source of hope for modern Man with his thirst for liberty.

In modern political doctrine, the problem of the authenticity and originality of the separation of powers has remained in the forefront. Thus Gaetano Hosca considered that the absolute separation of the three powers, championed by Montesquieu, does not exist and that, moreover, there is no necessity for three powers. The image of the Britisch constitution, as reflected in the parliamentary regime, is at a considerable remove from 'l'Esprit des Lois'. It would therefore seem that the influence of Locke on Montesquieu was not determinant.

We would then be entitled to ask whether the French were partisans of the separation or of the union of powers. According to Professor Imboden no answer can be given to the question of the primacy of the separation or of the union of powers. However, one may ask whether, finally, the separation is essential or whether the accent should not be placed on the interdependence of what are called 'the final instances' of the State. The reply is to be sought in Montesquieu himself. In the 'Esprit des Lois', there is no question of 'separation of powers', but of 'a certain distribution of the three powers'. The word 'separation' only appears in France after 1748.

In the American colonies which became independent, the concept of the 'separation of powers' was inserted into the constitutions: '...that the powers should be separate and distinct'. But this idea no longer appears in the constitution of the Union.

Professor Imboden believes that the day will come when a clearer and more convincing answer will be found to the question why the separation of powers is a guarantee of human liberty. The differentiation of power transforms the social milieu into 'inhabitable country'; it cuts down the might of the State to more human proportions. Finally, it means the humanization of power.

Professor Imboden's exposé is intelligent and imaginative. He himself recognizes that, on certain points, there are serious lacunae in his explanation and that the future will doubtless bring greater clarification. The brochure shows once more that the sociology of law is still in its infancy and that much remains to be done in this field. The sociology of law is practised systematically at Harvard

University, where pioneer work has been carried out. In Europe, too, we are beginning to take an interest in it. We here have an example of what can be achieved in research if certain principles are examined and analyzed in their final consequences. Moreover, it is often difficult to draw the frontier between the philosophy of law and the sociology of law. For the elaboration and promotion of a democratic and more human political community, the reflexions and conclusions of Professor Imboden are very important and suggestive.

V. A. Werck.

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